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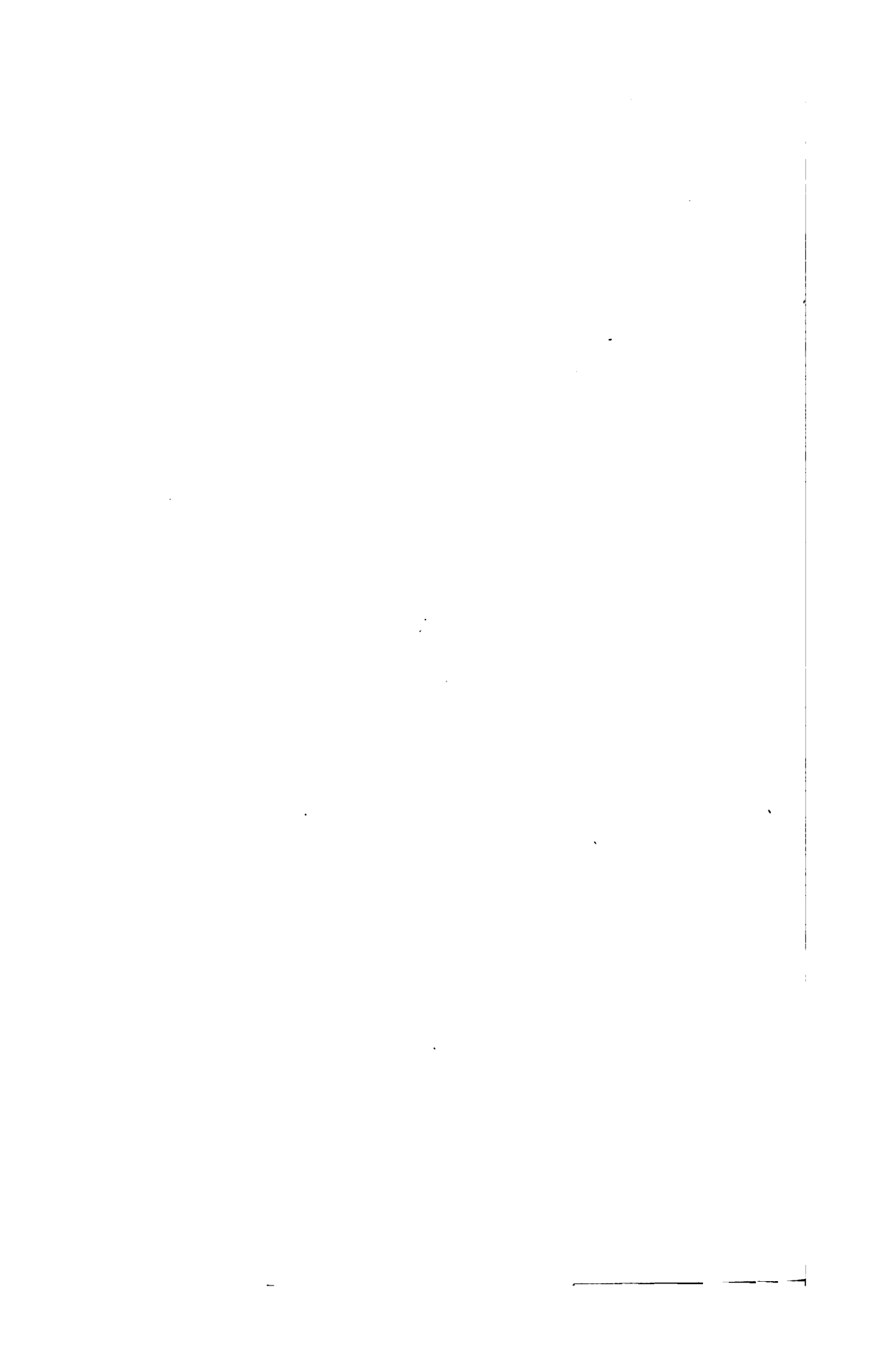
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LIQUOR LAWS
OF THE
UNITED STATES;
THEIR SPIRIT AND EFFECT.

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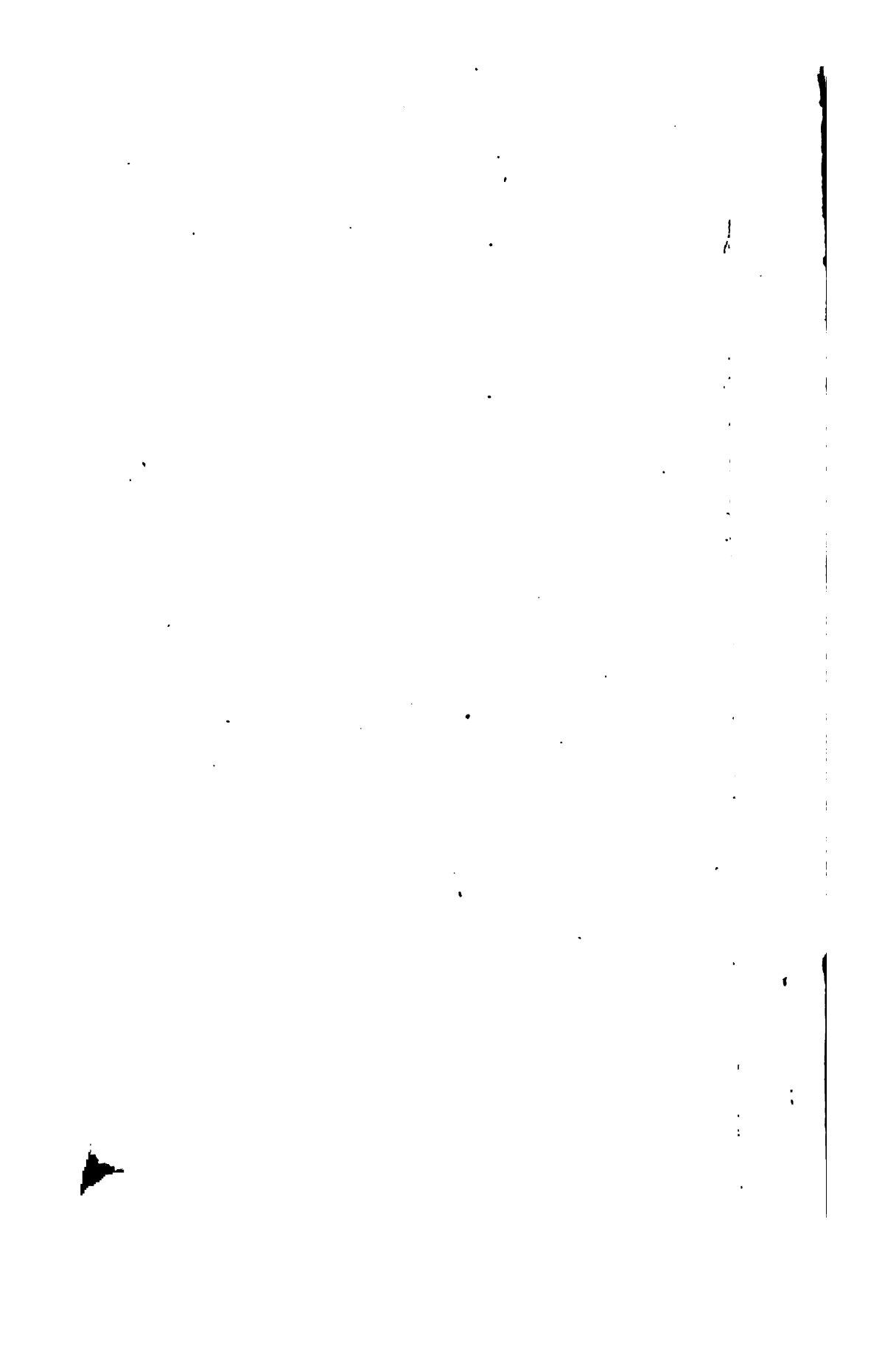
G. THOMANN,

AUTHOR OF "REAL AND IMAGINARY EFFECTS OF INTEMPERANCE."

TENTH EDITION.

NEW YORK:
THE UNITED STATES BREWERS' ASSOCIATION.

1893.



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PREFACE.

The liquor traffic, in all its bearings upon the moral and social condition of man, has recently been made the subject of methodical enquiries in very many European countries, and a mass of extremely valuable material has already been and is still being gathered there for the purpose of establishing a scientific basis for future legislation. Similar efforts are at present being made in the United States, and it is to be hoped that fairness, impartiality, and an unselfish regard for the welfare of the whole country may guide them. This book is offered as an unpretending contribution to these efforts. It claims no merit save that of strictest truthfulness in the representation of the spirit and effect of the liquor laws of this country. The nature of its subject-matter required a separation of the laws enacted by Congress from those enacted by the legislatures of the States. The former laws are reviewed in the present volume; the latter will form the subject of another volume, to be published hereafter.

THE AUTHOR.

NEW YORK CITY, }
April, 1885. }

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LIQUOR LAWS OF THE UNITED STATES;

THEIR SPIRIT AND EFFECT.

CHAPTER I.

FISCAL TASK OF THE FIRST CONGRESS. PRESSURE IN FAVOR OF THE PROTECTION AND ENCOURAGEMENT OF DOMESTIC MANUFACTURES. CAUSES AND EVIDENCES OF THIS PRESSURE. DEBATE ON MADISON'S CUSTOMS PROPOSITION. ARGUMENTS FOR AND AGAINST PROTECTION; FOR AND AGAINST HIGH RATES OF DUTY ON DISTILLED LIQUORS. MORAL ASPECT OF SUCH DUTIES. UNANIMITY OF OPINIONS IN REGARD TO EXPEDIENCY, FROM A MORAL STANDPOINT, OF ENCOURAGING THE MANUFACTURE OF MALT LIQUORS. THE FIRST REVENUE LAW. THE DRIFT OF POPULAR SENTIMENT IN REFERENCE TO THE QUESTION OF TEMPERANCE. CONCLUSIONS AS TO SPIRIT OF THE FIRST REVENUE LAW, IN ITS BEARING ON THE LIQUOR TRAFFIC.

In grappling with the fiscal results of the Revolutionary war, the first Congress of the United States, confronted with a depleted treasury and an enormous debt, the interest of which had, owing to the impotency of the Continental Congress, accumulated to a startling figure, could not in the nature of things concede more than secondary importance to any fixed policy, to any concisely formulated principle of

political economy.* The controlling idea, the one object which, obtruding itself with imperative directness upon the members of Congress, temporarily excluded all others; was to raise revenue, to rescue the tottering credit of the country, and to establish that national integrity without which the political independence so stubbornly and bravely fought for, so gloriously achieved, would inevitably have fallen into contempt. No policy, however judicious and popular, could have prevailed in conflict with this object.

It so happened, however, that the mode of securing revenue, the method of taxation most favored, because—then as now—deemed least oppressive, bore within itself the germ of, and presented the form and machinery for, a fixed economic policy which, in the opinion of many leading minds of that day, was singularly well adapted to a country of vast territorial expanse, of immeasurable natural resources, but having a scant population, almost no advanced manufactures, and few means of bringing to the surface and utilizing the immense and diversified wealth hidden under the soil.

That the laying of an impost on commodities imported into the United States was the most feasible and popular measure of obtaining revenue, seems to have been a foregone conclusion with all the members of the first Congress. The temptation to give this measure a protective coloring proved irresistibly alluring. For, whatever the theoretical opinion as

* From the report of the Congressional committee appointed to prepare an estimate of supplies requisite for the year 1789, it appears that the arrearages of interest up to the 31st December, 1787, amounted to \$8,123,124.55, in addition to which sum, Congress had to provide for two years' interest, becoming due 1st January, 1790, and amounting to \$8,896,521.43; making a total of \$11,519,646, or more than one-fourth of the principal of the entire foreign and domestic debt—the former amounting to \$10,070,807, the latter to \$27,383,917. (Am. State Papers; Finance, Vol. I, page 11.)

to the *general* economic expediency of a protective system may have been, there can be no doubt, that a strong, wide-spread popular sentiment in favor of the encouragement and protection of domestic manufactures prevailed in very many localities, though it lacked uniformity of origin and cause. But the very complexity of motives, views and interests, from which this sentiment sprang, lent additional force to the efforts for its realization. While in many instances the desire to emancipate the new-born nation from the industrial thralldom of England was intensified by the animosity which the war had engendered against everything English, in others it was undoubtedly strengthened by an honest conviction, however erroneous, that industrial protection and national prosperity bore to each other the relation of cause and effect. In certain localities this sentiment was produced by purely industrial considerations, confined to a few manufactures which formed an essential source of the wealth of the people immediately concerned. The greater part of the urban population of the country certainly desired protection from purely selfish motives; whereas among the rural population the advocacy of a protective system was believed to be a part of true patriotism, even if for no other reason than that, in case of war, the absence of domestic manufactures implied—as the bitter experiences of the struggling colonies had demonstrated, with painful clearness—a want of means of defense, and, accordingly, a humiliating and withal uncertain dependence upon foreign nations for the munitions of war. Another motive, actively at work in a small circle of far-seeing statesmen, was the desire to acquire national prestige and recognition, and in this case the impulses of patriotism helped to formulate a policy which aimed at the utilization of a tariff, with differential rates, as a regulator of our international relations. Inasmuch as, under the circumstances then existing, such restrictions would necessarily have been directed against the very

country from which we drew the greater part of imported commodities, and as the condition of European politics, then extremely unsettled and threatening, prevented the United States, for a time, from profiting by their amical relations with other maritime powers, the indirectly protective effect of this motive will readily be perceived. English precedent, it is frequently claimed, may also have been a factor in creating a Protectionist predilection; but if this assumption be admissible, it must appear as a somewhat singular coincidence, that this policy was americanized by Congress at the time, when it was beginning to lose its vitality in the land of its birth. For it is a historical fact that Pitt's *Customs Consolidation Act* of 1787, growing out of the discontent at the detrimental effects of a hopelessly confused protective system, was but the timid precursor of the income tax, a measure by which, two years later—hence at the time of the initial session of our first Congress—the anti-Protectionist movement, then, it is true, very far yet from the ultimate consummation of its objects, was inaugurated in England. Yet, the seemingly flourishing condition of English manufactures and commerce, ascribed by an influential school of politicians to a restrictive and protective policy, may have had its weight with those Americans, who looked up to, and were guided by, English precedents. In some States, the law-making power had already adopted protective measures, so constituted as to afford encouragement to those manufactures which the necessitous state of things of preceding periods had called into existence.

A scrutinizing study of the meagre stock of information contained in the writings of politicians and statesmen, competent to judge of the state of affairs at the period in question, leads to the conviction, that the cause of industrial protection found many able advocates even in those circles in which prevailed the opinion that agriculture would well-

nigh forever form nine-tenths of our wealth. And there is, at bottom, no inconsistency in this, inasmuch as those holding these opinions, very correctly believed that manufactures afforded great encouragement to agriculture, and deserved the fostering care of government for this, if for no other reason. Tench Coxe, for instance, subsequently Commissioner of Internal Revenue under Hamilton's administration of the Treasury Department, a statesman, who to-day would be styled a Free-Trader, concluded a paper read before the society for political enquiries, convened in Benjamin Franklin's house, May 11, 1787, in the following words: "That the United States of America cannot make a proper use of the natural advantages of the country, nor promote her agriculture and other interests, without manufactures; that they cannot enjoy the attainable benefits of commerce and the fisheries, without some general restrictions and prohibitions affecting foreign nations."

These conclusions are somewhat qualified by the admonition that, in establishing manufactories and forming these restrictions and prohibitions, care must be taken not to interfere with the settlement and improvement of the soil.

Quite a different view of the question of protection is presented in a petition of seven hundred and twenty-nine tradesmen, mechanics and others, of the town of Baltimore, submitted to the first Congress, April 11, 1789. It is stated therein:

"That since the close of the late war, and the completion of the Revolution, the petitioners have observed the manufacturing and trading interests of the country rapidly declining, while the wealth of the people hath been prodigally expended in the purchase of those articles, from foreigners, which our citizens, if properly encouraged, were fully competent to furnish.

To check this growing evil some of the legislatures in the several States interposed their authority; laws were by them enacted with a view of subduing, or, at least, diminishing the rage for foreign, and of encouraging domestic manufactures; but the event hath clearly demonstrated that no effectual provision could reasonably be expected until one uniform, efficient government should pervade this wide-extended country. The happy period having now arrived when the adoption of the General Government gives one sovereign legislature the exclusive power of laying duties upon imports, the petitioners rejoice at the prospect thus afforded them, that America, freed from her commercial shackles, will see and pursue her true interest, becoming independent in fact as well as in name, by the encouragement and protection of American manufactures, as it is an universally acknowledged truth, that the United States contain resources amply sufficient to enable them to become a great manufacturing country, and only want the patronage and support of wise and energetic government."

The petition concludes with the imperative suggestion that a rate of duty, sufficiently high to afford protection be imposed upon one hundred and twenty enumerated articles, among them beer, ale and porter.

A similar petition by the mechanics and manufacturers of New York, was presented to Congress, April 18, 1789, and was followed by many others of similar purport and tenor.

This cursory and incomplete enumeration of the causes to whose co-operation must be ascribed the popular agency in favor of protection, suffices, no doubt, to demonstrate the fact that the first Congress did not lack a pressure from without to urge it to the adoption of such a policy. At all events, the

unbiased reader of history can in no way be surprised to find that the intention of creating and fostering domestic manufactures, particularly those of which England had so easily acquired an almost complete monopoly in her former colonies, very early assumed such a character, that a disproportionately large part of the Congressional discussion, evoked by what is known as the Tariff Act of 1789, was devoted to this subject. In fact, the only elementary points of disagreement among the national legislators, in reference to the customs tariff proposed by Madison, embraced, in a mild form, all the essential features of a conflict between the divergent principles of Protection and Free Trade. Aside from mere detail, the only other noteworthy cause of differences of opinion—so far as this work is concerned—was of a moral nature, relating, as it did, to the question of *temperance*.

These two facts, each of the utmost significance in its bearing upon the liquor question, must constantly be borne in mind, and permitted to guide the student, if an enquiry into the spirit of the laws relating to, and in any manner affecting the liquor traffic is to yield reliable conclusions.

In proposing an impost on articles imported into the United States, Madison, on the 8th day of April, 1789, the House of Representatives having resolved itself into a committee of the whole on the state of the Union—disclosed his opinion on the subject of freedom of commerce, in such a way that from some of his utterances, torn from the entirety of his argument, it might be made to appear that he was a Free Trader in the modern sense of the term. "Commerce," he said "ought to be as free as the policy of nations will admit." And again: "I own myself the friend of a very free system of commerce." The former expression reveals the true inwardness of his position.

The scope of the freedom of commerce was, in his opinion, to be circumscribed by the policy of nations. Undecided

himself as to what policy the interests of the entire country would dictate; ignorant of the opinions of his colleagues; but appreciating the urgency of the situation and overestimating, rather than undervaluing, the necessity of establishing harmony, by avoiding serious parliamentary conflicts, he proposed what he conceived to be the most effective means of speedily obtaining revenue.—Without fixing the rates, he proposed specific duties on rum; all other spirituous liquors; on molasses; on Madeira wine, and all other wines; on tea, pepper, sugar, cocoa and coffee, and an *ad valorem* duty on all other commodities. His proposition was based on a recommendation made by the Continental Congress of 1783, and at that time agreed to by the States.

On the following day Lawrence, of New York, opposed the laying of specific duties on enumerated articles, and advocated a duty at a certain rate per cent. on the value of all imported goods. He feared that an enumeration would create confusion, besides being unjust, since it was not then known whether the articles enumerated were able to bear the rate specified, nor whether the enumeration included *all* articles capable of bearing specific duties. Before experience had taught, and systematic enquiries demonstrated, the character and extent of specific duties, best calculated to further the general welfare, a temporary *ad valorem* system seemed to him preferable to the one suggested. Fitzsimmons, of Pennsylvania, on the same day, first introduced the subject of protective and sumptuary regulations. Opposed to a temporary system having for its exclusive object the raising of revenue, this legislator offered an addition to the articles enumerated in Madison's proposition, stating, that in doing so he was actuated by a desire "to encourage the productions of our country, to protect our infant manufactures and to place restrictions upon articles which are termed those of luxury."*

* See Benton's "Abridgment of the Debates in Congress." Vol. I, page 28.

additional list embraced fifty three articles—beer, ale and porter being at the head; it also included malt and cider. White, of Virginia, and Tucker, of South Carolina, seemed inclined to support Madison's proposition, with the only difference that both thought rum, wine and sugar could bear an *ad valorem* tax in addition to a specific duty; both were unwilling to establish a permanent system, so long as it was not positively ascertained what the interests of the whole Union required. Not a word was uttered by either member against the reasons given for swelling the list of enumerated articles. Hartley, of Pennsylvania, dilated on the protective theories enunciated by Fitzsimmons. He said:

“If we consult the history of the ancient world, we shall see that they have thought proper, for a long time past, to give great encouragement to the establishment of manufactures, by laying such partial duties on the importation of foreign goods, as to give the home market a considerable advantage in the price when brought to market. It is also well-known to this committee that there are many articles that will bear a higher duty than others, which are to be taxed with a certain impost *ad valorem*. From this view I think it both politic and just that the fostering hand of the General Government should extend to all those manufactures which will tend to national utility. * * * We have been forced by necessity, and various other causes, to increase our domestic manufactures to such a degree as to be able to furnish some in sufficient quantities to answer the consumption of the whole Union, while others are daily growing into importance. Our stock of material is in many instances, equal to the greatest demand, and our artisans sufficient to work them up even for exportation. In these cases I take it

to be the policy of every enlightened nation to give their manufactures that degree of encouragement necessary to perfect them, without oppressing the other parts of the community."

In a lucid, though somewhat timid manner, Madison, and after him Boudinot, of New Jersey, remonstrated against any attempt to sacrifice the general welfare to local interests; but while emphasizing the superiority of agriculture over all other material interests, the former admitted that "the States most advanced in population, and ripe for manufactures, ought to have their particular interests attended to in some degree." Nothing else was said against the enunciation of Protectionist principles. It will readily be inferred that the advocates of Protection had, thus early, the advantage of a plan of action, of a fixed policy based on a knowledge and appreciation of the wants of their respective localities and constituents. They were, consequently, more direct and decided, less equivocal in their arguments than those members who, for the want of information and experience, were neither prepared wholly to reject, nor willing entirely to adopt the Protectionist idea; yet finally, as will be seen, acceded, reluctantly perhaps, to a tariff of a decided Protectionist coloring. Nor do the preliminary arguments, of which the foregoing is a very crude epitome, contain anything warranting the supposition that the concessions to local interests, foreshadowed in the last-quoted words of Madison, would have been withheld, if the contemplation of undefined dangers, which seemed to threaten the harmony and hence the stability of the new government, had not produced a feeling of timidity and a mutual inclination to temporize, conciliate and mediate. On the contrary, it will be seen that in few marked instances, even Madison, and others sharing his views generally, advocated Protection from choice and conviction, as, for example, in the case of *malt liquors*.

When, on the third day of the discussion, the first article on Madison's list, rum, came up for consideration (Sherman, of New Jersey, having moved to fix the rate of duty at fifteen cents per gallon), the discussion, which Smith, of Maryland, initiated by a counter-proposition, was intercepted by Madison's motion "that the Committee rise, in order to give gentlemen time to make up their minds respecting the quantum of impost to be laid on each article.—Three days intervened between this action and the resumption of debate on the subject. Lawrence (N. Y.) considered twelve cents a sufficiently high duty on rum; he feared that a higher rate would prove "a strong temptation for smuggling," and thus fail to attain its object. He said :

"I wish to lay as large a sum on this article as good policy may deem expedient; it is an article of great consumption, and though it cannot be reckoned a necessary of life, yet it is in such general use, that it may be expected to pay a very considerable sum into your treasury. But, when we consider the relative proportion of the first cost of it, and the fifteen cents duty, we shall find it about one-third. This is too high, as the risk of a total loss may be ventured in order to save so great a sum."

Madison favored the higher rate, and adverted to popular sentiment as approving of such measure; an allusion which Boudinot, of New Jersey, eagerly seized and dilated upon. He stated that a high duty would answer two or three good purposes. No article on the list, he thought, would yield so large a revenue as this, and it might also tend to *discourage the use of ardent spirits*. Moral considerations seem, however, not to have been overwhelmingly potent with this legislator, seeing that the third purpose which he thought a high duty

could be made to serve, was the perfecting of our own distilleries by discouraging the West Indies from turning their molasses into rum, and compelling them to seek our market for that product. His position, not particularly well defended by sound logic, was assailed by Lawrence, who said :

“If we are to reason and act as moralists on this point, I am certain it is the wish of every member to prevent the use of ardent spirits altogether, for their influence on the morals of the people is of the most pernicious kind. Nor does the mischief terminate here, as I apprehend it is equally destructive to the health; but we are not here to deliberate and determine on this subject as moralists, but as politicians, and endeavor to draw, (if I may use the expression) from the vices of mankind that revenue which our citizens must, in one form or other, contribute. * * * If we lay a high duty on Jamaica rum, it is supposed it will prevent consumption, but then the purpose we have in view is frustrated, either because we cannot collect the tax or because the object of it is no longer imported.”

He again adverted to the danger of an evasion of the law by smuggling, for which occupation our extensive and unguarded coast offered alluring temptation, as well as the conditions of success. At the end of this brief discussion it was agreed to tax ardent spirits, of Jamaica proof, fifteen cents; and all other spirituous liquors, twelve cents.*

So far the discussion had not elicited any very pointed Protectionist argument; but when Madison, asserting, by way of preface, that he wished to protect *our own* manufacture as much as possible, proposed to lay on molasses a duty of eight

* The rates ultimately adopted will be given hereafter.

cents per gallon, the representatives of the New England States promptly assumed the offensive in the interest of their constituents, contending for a low duty, on the ground that the contrary would involve the ruin of these States. The exceptionally high duty proposed to be imposed on Jamaica rum was to them a protective measure whose effectiveness would have been seriously impaired, if not entirely neutralized, by a high duty on West India molasses. Massachusetts then imported annually between 30,000 and 40,000 hogsheads of molasses, obtained from the West Indies in exchange for the products of the fisheries. A great quantity of this material was manufactured into rum, but no inconsiderable portion of it entered, in its original state, into the common diet of the people. The latter circumstance gave the New England members an excellent vantage-ground, and furnished them the means wherewith to cloak the real animus of their opposition, had they elected to do so, as they did not. Their avowed object was to protect the rum distilleries at all hazards. Thatcher (Mass.) was the only one who took a broad view of the temperance aspect of the question. He said: "I presume a principal reason why a high tax on spirits was admitted was in order to discourage the use of it among ourselves. If this was the intention of the committee, I have no objection to the burden; but, even here, I fear difficulties will arise. Did we judiciously examine whether the spirit of the law accords with the habits and manners of the people? and did we assure ourselves of the full execution of the law? If we have not, the act becomes impolitic, because a law which cannot be executed tends to make the Government less respectable." Ames (Mass.) stated his objections in a speech which deserves to be reproduced in the abridged form given in Benton's work:

"The principles on which this tax is founded, I understand to be this: that it is an article of luxury, and of pretty general consumption, so that the duty is expected to fall equally upon all, but that it will not operate in

this manner, I think is easily demonstrable. Can a duty of fifty per cent. *ad valorem*, paid, as it were, in an exclusive manner, by the State of Massachusetts, be equal? No, sir. But, taking it as a part of the general system can it be equal unless a proportionable duty, equal to fifty per cent. is laid upon articles consumed in other parts of the Union? No, sir; and is it in contemplation of gentlemen to lay duties as high as to produce this equality? I trust it is not; because such duties could never be collected. Is not, therefore, eight cents disproportioned to the rates fixed, or intended to be imposed on other articles? I think it is; and, if to these considerations we add what has been said before, relative to its being a raw material important to a considerable manufacture, we cannot hesitate to reject it. However gentlemen may think the use of this article (rum) dangerous to the health and morals of our fellow-citizens, I would also beg them to consider, that it is no more so than any other kind of spirituous liquors, that it will grow into an article for exportation; and although I admit we could export it even encumbered with the duty proposed, yet by it we run the risk of having the manufacture totally ruined, for it can hardly now stand a competition at home with West India rum, much less can it do so abroad. If the manufacturers of country rum are to be devoted to certain ruin, to mend the morals of others, let them be admonished that they prepare themselves for the event. If their situation will not operate to restrain the hand of iron policy, consider how immediately they are connected with the most essential interests of the Union, and then let us ask if it is wise, to take measures subversive of your very existence. For I do contend that the very existence of the Eastern States depends upon the navigation and fishery, which receive a deadly wound by an excessive impost on the article before us. I would concur in any measure calculated to exterminate the poison covered under the form of ardent spirits, from our country; but it should be without violence. *I approve as much as any gentleman the introduction of malt liquors, believing them not so pernicious as those in common use. But before we restrain ourselves to the use of them, we ought to be certain that we have malt and hops, as well as brew-houses for their manufacture."*

A slight concession, subsequently followed by a considerable reduction of the rate, was the result of this speech. The duty on *Madeira* wine and other *wines* evoked no discussion throwing any additional light on the subject, in either of the two principal aspects before-mentioned. A high duty on *Madeira* was advocated, on the ground that it was an article of luxury used exclusively by the rich.

On the 15th of April, the question being on inserting in the list of dutiable articles *beer, ale and porter*, Fitzsimmons, who had originally proposed such insertion, moved an alteration in these objects, by distinguishing beer, ale and porter imported in casks, from what was imported in bottles. He urgently advocated the encouragement and protection of malt liquors on moral grounds. "If," he said "the morals of the people are to be improved by what enters into their diet, it would be prudent in the National Legislature to encourage the manufacture of malt liquors. The small protecting duties laid in Pennsylvania had a great effect towards the establishment of breweries; they no longer imported this article, but on the contrary exported considerable quantities, and in two, three years, with further protection, would be able to furnish enough for the whole consumption of the United States. He moved that the duty be fixed at 9 cents per gallon. Lawrence, whose strictures and criticisms on high duties had, from the beginning, placed him in an attitude of opposition to the whole measure, wished to have American malt liquors strongly protected, on the ground that they were preferable to the English product, and for the further reason that this manufacture would add to the prosperity of domestic agriculture, as hops and barley were products of our soil. All those members, who participated in the debate, evinced the same inclination to protect malt liquors, for moral and economic reasons; but opinions differed as to the expediency of the rate of duty named. Some feared, that so high a duty, practically operating as a prohibition against foreign malt liquors, would give American brewers a monopoly, and, by enhancing the price of the beverage, increase the use of ardent spirits. To this objection was opposed Sinnickson's (N. J.) argument that a prohibition of foreign malt liquors would inevitably increase the domestic manufacture of the article, and as inevitably lessen its price. Madison, moving to lay a duty of eight cents on malt liquors,

hoped "*that this rate would be such an encouragement as to induce the manufacture to take deep root in every State of the Union.*" The striking unanimity of the members of Congress on the subject of protecting this article precluded further discussion.

In subsequent debates the objections urged against high rates became more general, but preserved their original coloring, although the protective feature was no longer the principal pivot of argument. The supposed difficulties in collecting high rates, and the incentive they offered to evasions of the law, were put forth as valid reasons against their adoption. Great stress was laid on the alternative of tolerating such evasions and suffering their consequences to the national treasury, or of resorting to a system of collection which the people would regard as oppressive, and hence resist. These objections were met by a countervailing alternative, formulated by Sherman, who thought that to reduce the proposed rates would frustrate the object of raising an adequate amount of revenue for the liquidation of the accumulated national obligations, and the maintenance of the Government, and in that case it would become necessary to supply the deficiency by direct taxation. This touched a most vulnerable point in the legislative and the popular mind. A deep-rooted aversion to direct taxes seemed, at that time, absolutely to exclude the possibility of having recourse to this method of raising revenue. Whenever, in the devious course of the discussion, a casual allusion, however slight, was made to any other mode of taxation than the one under consideration, it instantly became evident that a great majority of the members were unwilling even to entertain any proposition tending in that direction. Yet, when the motion to reduce the proposed duty on molasses was again being considered, in its bearing on domestic distilleries, fisheries and navigation, the New England members dauntlessly propounded the adoption of an excise on domestic rum,

as a revenue-method holding out an offset to the probable deficiency of national income, consequent upon the wished-for lowering of the duty on molasses. Such was the potency of the local interests in question, that their defenders felt no hesitancy in suggesting this highly unpopular measure. In one sense, their position was entirely logical however, even if they only used it as a blind, depending for its rejection upon the very unpopularity of it. Logical it was, because all that had been said in reference to distilleries, from a moral as well as from an economic point of view, could not apply to imported molasses in the raw state, save on the assumption that the entire quantity imported would be transformed into rum. But inasmuch as this premise was recognizedly untenable, it seemed but just to claim an exemption from the high tax for that portion of the imported article consumed in its original state.

Viewed in conjunction with what was predicted as to the ruinous effect of a high tax on distilleries, the position seemed not quite so well taken; for, as Madison justly argued, to resort to a low rate of impost on molasses, adding to it an excise on domestic rum, would lay an equally heavy burden on the distilleries—the only difference being, that the tax would be paid in two forms, instead of one.

After Ames and Goodhue had again stated the close connection existing between the molasses trade and the fisheries, Madison, who in this debate displayed all that keen penetration, rapid comprehension and felicity of utterance which easily won for him the leadership of the House, summed up the counter-arguments in this forcible manner.*

“He thought an excise very objectionable, but as no actual proposition for entering into such a system was before the committee, he forbore to say anything further about it. He admitted an excise would obviate in part

* These and all previous quotations are taken from Benton's “Abridgment of the debates of Congress.”

some of the difficulties, but he did not think the answer given to his argument altogether satisfactory ; yet there was another argument he urged on a former occasion remaining unanswered—it was, that at this moment the fisheries, distilleries, and all their connections, were laboring under heavier duties than what is now proposed ; true, the duty is collected in a different mode, but affects the consumer in the same manner. The gentlemen have said, to be sure, that the duty is evaded ; but if half is collected, it amounts to more than six cents per gallon. It is said that a tax on molasses would be unpopular, but not more so than a tax on salt. Can gentlemen state more serious apprehensions in the former than the latter case ? Yet the committee did not forego a productive fund, because the article was a necessary of life and in general consumption. If there is the disposition that is represented for people to complain of oppression of Government, have not the citizens of the Southern States more just ground for complaint than others ? The system can only be acceptable to them, because it is essentially necessary to be adopted for the public good. Gentlemen argue that a tax on molasses is unpopular, and prove it by experience under the British Government. If this is to be adduced as a proof of the popularity of a measure, what are we to say with respect to a tax on tea ? Gentlemen remember, no doubt, how odious this kind of tax was thought to be throughout America ; yet the House had, without hesitation, laid a considerable duty upon it. He did not imagine that a duty on either of those articles was in itself objectionable ; it was the principle upon which the tax was laid that made them unpopular under the British Government.

It is said that this tax is unjust : now he had not a single idea of justice, that did not contradict the position. If it be considered as it relates to rum, he was certain the consumers of foreign rum paid a larger proportion of revenue into the Treasury than the consumers of country rum ; they paid more than equal distributive justice required ; if it was considered as it respected molasses, there would appear no injustice. Molasses was consumed in other States ; but if it was not, sugar was used in its stead, and subjected to a duty as high as that on molasses. But dismissing both these considerations, and even admitting the whole weight to fall on the Northern States, it would not be disproportioned, because, in the long list of enumerated articles subject to a high duty, they import few or none ; indeed the articles were pretty generally taxed for the benefit of the manufacturing part of the northern community ; see loaf sugar, candles, cheese, soap, &c. He hoped gentlemen would not infer from this observation, that he thought the encouragement held out by the bill to manufacturers improper ; far from it ; he was glad to see their growing consequences, and was disposed to give them every aid in his power. From this view of the subject, he was inclined to adhere to the bill, and not make any reduction."

The discussion, so far as it throws any light on the features of the subject under consideration, practically ceased with Madison's speech. After various amendments had been made, and clauses added—among the latter, one limiting the operations of the law to the 1st day of June, 1796—the bill was sent to the Senate, and there read a first time on May 18th, passing to a second reading on the 21st, and a third reading on the 11th of June. On June 12th, the bill was returned to the House with various amendments. For obvious reasons, the literal text of the debates in the Senate cannot be given; their tenor, however, may readily be deduced from the character of the amendments. The latter were principally based upon the grounds maintained by the minority of the House. The refusal of the House to concur in the amendments proposed by the Senate, was met by the declaration of the latter body, that the amendments would not be receded from. Both branches of Congress insisting, with equal tenacity, on carrying their points, the appointment of a committee of conference was finally agreed upon; and this committee reported, on the 27th of June, that the conference resulted in the adoption of the bill as amended by the Senate, with some additional alterations affecting, among other things, the rate of duty on spirituous and malt liquors. The President approved the bill on July 4th. The rates of duty imposed by virtue of it upon the articles of the liquor traffic were as follows:

SPECIFIC RATES:

Ale, beer and porter, 5 cents per gallon; and 20 cents per dozen bottles. Cider, 20 cents per dozen bottles.

Malt, ten cents per bushel. Molasses, two and one-half cents per gallon. Spirits, Jamaica, ten cents per gallon, and all others eight cents. Madeira wine, eighteen cents per gallon, and other wines, ten cents per gallon.

The following is the title, and the full text of the first section, of the law.

AN ACT FOR LAYING A DUTY ON GOODS, WARES, AND MERCHANDISES
IMPORTED INTO THE UNITED STATES.

SECTION I. Whereas it is necessary for the support of government, for the discharge of the debts of the United States, *and the encouragement and protection of manufactures*, that duties be laid on goods, wares and merchandise imported :

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of August next ensuing, the several duties hereinafter mentioned shall be laid on the following goods, wares and merchandise imported into the United States from any foreign port or place, that is to say : on all distilled spirits of Jamaica proof, imported from any kingdom or country whatsoever, per gallon, ten cents ; on all other distilled spirits, per gallon, eight cents ; on molasses, per gallon, two and a half cents ; on Madeira wine, per gallon, eighteen cents ; on all other wines, per gallon, ten cents ; on every gallon of beer, ale or porter in casks, five cents ; on all cider, beer, ale or porter in bottles, per dozen, twenty cents ; on malt, per bushel, ten cents ; on brown sugars, per pound, one cent ; on loaf sugars, per pound, three cents ; on all other sugars, per pound, one and a half cents ; on coffee, per pound, two and a half cents ; on cocoa, per pound, one cent ; on all candles of tallow, per pound, two cents ; on all candles of wax or spermaceti, per pound, six cents ; on cheese, per pound, four cents ; on soap, per pound, two cents ; on boots, per pair, fifty cents ; on all shoes, slippers or goloshes made of leather, per pair, seven cents ; on all shoes or slippers made of silk or stuff, per pair ten cents ; on cables, for every one hundred and twelve pounds, seventy-five cents ; on tarred cordage, for every one hundred and twelve pounds, seventy-five cents ; on untarred cordage and yarn, for every one hundred and twelve pounds, ninety cents ; on twine or pack thread, for every one hundred and twelve pounds, two hundred cents ; on all steel unwrought, for every one hundred and twelve pounds, fifty-six cents ; on all nails and spikes, per pound, one cent ; on salt, per bushel, six cents ; on manufactured tobacco, per pound, six cents ; on snuff, per pound, ten cents ; on indigo, per pound, sixteen cents ; on coal, per bushel, two cents ; on pickled fish, per barrel, seventy-five cents ; on dried fish, per quintal, fifty cents. On all teas imported from China or India, in ships built in the United States, and belonging to citizens thereof, or in ships or vessels built in foreign countries, and on the sixteenth of May last, wholly the property of citizens of the United States and so continuing until the time of importation as follows : on bohea tea,

per pound, six cents; on all souchong, or other black tea, per pound, ten cents; on all hyson teas, per pound, twenty cents; on all other green teas, per pound, twelve cents. On all teas imported from Europe in ships or vessels built in the United States, and belonging wholly to a citizen or citizens thereof, or in ships or vessels built in foreign countries, and on the sixteenth of May last, wholly the property of citizens of the United States and so continuing until the time of importation, as follows: on bohea tea, per pound, eight cents; on all souchong, and other black teas, per pound, thirteen cents; on all hyson teas, per pound, twenty six cents; on all other green teas, per pound, sixteen cents. On all teas imported, in any other manner as above mentioned, as follows: on bohea tea, per pound, fifteen cents, on all souchong, or other black teas per pound, twenty-two cents; on all hyson teas, per pound, forty cents, on all other green teas, per pound, twenty-seven cents. On all goods, wares and merchandises, other than teas, imported from China or India, in ship not built in the United States, and not wholly the property of citizens thereof, nor in vessels built in foreign countries, and on the sixteenth of May last wholly the property of a citizen or citizens of the United States, and so continuing until the time of importation, twelve and a half per centum *ad valorem*.

TEN PER CENTUM AD VALOREM.

On all looking-glasses, windows and other glass (except black quart bottles); on all china, stone and earthen ware; on gun powder; on all paints ground in oil; on shoe and knee buckles; on gold and silver lace; and on gold and silver sheaf.

SEVEN AND A HALF PER CENTUM AD VALOREM.

On all blank books; on all writing, printing or wrapper paper, paper hangings and pasteboard; on cabinet wares; on buttons; on all saddles; on all gloves of leather; on all hats of beaver, fur wool, or mixture of either; on all millinery ready made; on all castings of iron, and upon slit and rolled iron; on all leather tanned or tawed, and all manufactures of leather, except such as shall otherwise be rated; on canes, walking sticks and whips; on clothing ready made; on all brushes; on gold, silver, and plated ware, and on jewelry and paste work; on anchors, and on all wrought, tin and pewter ware.

On playing cards, per pack, ten cents. On every coach, chariot or other four wheel carriage, and on every chaise, solo, or other two wheel carriage, or parts thereof, fifteen per cent. *ad valorem*. On all other goods, wares and merchandise, five per cent on the value thereof at the time and place of importation, except as follows: saltpetre, tin in pigs, tin plates, lead, old pewter, brass, iron and brass wire, copper in plates, wool, cotton, dyeing

woods and dyeing drugs, raw hides, beaver and all other furs, and deer skins.

The question of temperance, which formed a strong undercurrent throughout the discussion on the subject of laying high duties on spirituous and malt liquors, was presented in various aspects, according to the conjunction in which it stood to the principal issue. When arrayed against local interests, as in the case of the New England States, it was promptly relegated, by those immediately affected, to the domain of moral philosophy and ethical speculation, as an uncommonly good thing in itself, highly desirable wherever attainable, without detriment to material interests; but scarcely worthy of serious consideration, where the raising of revenue and the protection of existing industries dictated a contrary course. But even in these cases there was rare unanimity of opinion as to one of the remedies, propositionally and positively recommended, and ultimately adopted. The true status of the question needs some elucidation.

The historian Hildreth, in reviewing the foregoing debates, says:

The great evils attending the free use of ardent spirits had already attracted public attention. A tract on this subject by Dr. Rush had lately been republished in almost all American papers, and had made a strong impression on the public mind. At the federal festival at Philadelphia (held on July 4, 1788, celebrating the ratification of the new Constitution by ten States,) ardent spirits had been excluded, American beer and cider being the only liquors used."*

This laconic reference clearly points out both the evil and the remedy, as understood by all those members of Congress, whose speeches are herein quoted; but a closer examination

* "The History of the United States of America," Vol. IV., page 69.

will be necessary to a full understanding of the question.—The consumption of ardent spirits had assumed almost incredible proportions; the use of whiskey and rum had become so common that these articles were almost universally regarded as necessities of life. According to an estimate, the correctness of which the reader will have an opportunity of testing hereafter, the *per capita* consumption at that time appears to have been between twelve and thirteen quarts, annually. The actual consumption eludes computation; but this estimate, it is justifiably assumed, falls below, rather than above the true figure. Almost every farmer, in some States, manufactured his own whiskey, not only from the surplus of his cereal produce over and above the marketable portion, but frequently from all that part for which, either in the raw state, or manufactured into flour, a ready market could have been found. And this is not inexplicable when it is considered that ardent spirits had in some States become a measure of value, in lieu of currency, being accepted, for example, without reluctance, as remuneration for agricultural labor. Indeed, distillation had become an almost indispensable adjunct of agriculture in grain-growing localities; the condition of things growing out of this combination resembling strikingly the situation which was produced in Sweden, at about the same time (1787), when every family was given the right to distill liquors for home consumption.* Distillation afforded many pecuniary advantages. Coxe states, that from a bushel of rye two gallons of spirits could be extracted and brought to market, where it realized for the farmer two-thirds of a dollar at less expense than if the same quantity of grain had been manufactured into flour and carted to the same place for sale.† The fisheries and navigation of the New

* See "Real and Imaginary Effects of Intemperance," by G. Thomann, New York, 1884; page 93.

† "View of the United States;" page 124.

England States were—as has been learned from the debates in Congress—but the superstructure erected upon the basis of molasses; and, whatever Ames and his colleagues may have said of the consumption of this article in the raw state, it is not difficult to understand that advantages, similar to those favoring distillation in grain-growing localities, also operated to increase the manufacture of ardent spirits in the New England States.—In Pennsylvania the consumption of whiskey must have been prodigious, there having been, in 1790, no less than five thousand stills in operation. The census of 1790 places this State's entire population at 434,373; at a rough estimate, then, there was one still for every eighty-six of the inhabitants, man woman and child. Excesses, of which the present generation, trained to comparative sobriety, have no adequate conception, naturally followed such drinking habits and tended to arouse the darkest apprehensions in the minds of the more enlightened citizens of Pennsylvania, particularly of the city of Philadelphia—then the centre of humane thought and philanthropic aspirations. A rational temperance movement aiming, not at the destruction of the distilleries and the total abandonment of spirituous liquors, but at a refinement of drinking habits, was inaugurated long before the assembling of the first Congress, and its advocates and promoters had, at the period now under consideration, already acquired, by study, observation and experience, a very clear conception of the means necessary to the consummation of their object. The nature of this means cropped out at every stage of the Congressional debate on the subject of imposts, and the unanimity with which it was approved and adopted by members of Congress, shows that the public mind had been thoroughly imbued with a sense of its importance and effectiveness. This was, it need scarcely be said after all the quotations on the subject, the effort to create and cultivate a taste for malt liquors, and to substitute these, so far the climate of the various localities, the

mode of life and occupation of the people would permit, for ardent spirits.

Dr. Benjamin Rush, physician, moralist, philosopher, essayist, politician and orator; at one time professor of medicine and clinical practice at the University of Pennsylvania; a *savant* whose writings are even to this day quoted by temperance advocates, believed, as did the majority of his cultured contemporaries, that the true solution of the question lay in encouraging the brewing industry. In his essays on the effects of the excessive use of alcohol on the human body, this idea stands out in bold relief; but it is also easily traceable in all those didactic writings, by which he strove to mould popular thought in matters relating to individual happiness and general prosperity, as, for example, in his "Account of the manners of the German inhabitants of Pennsylvania." This valuable paper is prefaced with the following words:

"The State of Pennsylvania is so much indebted for her prosperity and reputation to the German part of her citizens that a short account of their manners may, perhaps, be useful and agreeable to their fellow-citizens in every part of the United States."

Dwelling briefly on the origin of German immigration, he proceeds to a description of those characteristics in which the German farmers differed from most other farmers of Pennsylvania. He praises their frugality and economy, their habits and love of labor; holds up for emulation the almost tender care they take of their horses and cattle; describes minutely the splendid condition in which they maintain their farms, gardens and buildings; the economy they practice in the disposition of their products; their methodical cultivation of the soil; the division of labor on their farms; the charming concord prevailing in their families; their aptitude for music; their piety and rectitude; their love of civic liberty, and the pride

they take in the propagation of their kind.* And, as if to furnish a key to all these traits, he states, in describing these peoples' diet: "Very few of them ever use distilled spirits in their families, their common drink being *beer, wine and cider.*" Dr. Rush closed his essay with an eloquent apostrophe to the citizens of the Union, the legislators of Pennsylvania and the law-makers of the United States, to the latter of whom he addressed the following words:

"Legislators of the United States, learn from the wealth and independence of the German inhabitants of Pennsylvania to encourage, by your examples and laws, the republican virtues of frugality and economy. They are the only pillars which can support the present Constitution of the United States."

Contrasting Rush's description of the manners of these people with what was said in reference to the general drinking habits and their results, it is not difficult to comprehend the objective point of the essay quoted.

The moral and economic aspect of this temperance movement becomes still more manifest in the writings of Tench Coxe. His views on the expediency of creating and fostering breweries coincided with the opinions of a great majority of the members of the first Congress:

"The encouragement to agriculture," he says, in his essay before quoted, "afforded by some manufactories, is a reason of solid weight in favor of carrying them on with industry and spirit. Malt liquors, if generally used, linseed oil, starch (and, were they not a poison to our morals and constitution, we might add grain spirits,)

* Had a German written such an essay, he would be liable to the imputation of an excess of national pride, and the author of this book, himself a German, would scarcely have found the courage to quote him.

would require more grain to make them, than has been exported in any year since the revolution. We cannot omit to observe here, that beer strengthens the arm of the laborer without debauching him, while the noxious drink now used enervates and corrupts him."

He styles beer "the best of our commodities," and urges upon farmers the advantages held out to them by the cultivation of hops and barley; but, though he consistently keeps in the foreground the economic interrelation between agriculture and the various manufactures mentioned, basing thereon his advocacy of moderately protective measures, he emphasizes again and again, with unusual ardor and force, the advisability of generally introducing malt liquors, upon purely moral grounds.

This leading idea of temperance advocates had already borne appreciable fruit, when Congress devoted some attention to the matter. The local authorities had in some cases acted upon it, with wisdom and judicious discrimination, and to their action and the refining influence of increasing intellectual activity must be attributed the flourishing condition of the brewing industry of Pennsylvania, as before described in the words of one of the Congressional representatives of this State. So evident, indeed, were the results of a rational exercise of moral suasion and judicious laws—unaided by anything resembling, in the remotest, an intermeddling with private rights, that Coxe found in the actual state of things sufficient warrant for the statement, that

"it may be considered a fact strongly in favor of the industry, sobriety and tranquility of the city of Philadelphia that its breweries exceed, in the quantity of their manufactured liquors, those of all the sea-ports of the United States."

And again :

“The superior virtue, both moral and political, of a country which consumes malt liquors instead of distilled spirits, needs only to be mentioned.”

It has been observed that in addition to economic considerations, and those of a moral nature, there is plainly discernible in the Congressional debates and other public utterances, what one might be tempted to regard as a patriotic motive, tending to a preference of American malt liquors over English beer, ale and porter. In reality this motive partakes more of a sanitary, than a patriotic character.

The fiscal policy, which unfortunately transformed the drinking habits of the English people, had reached its climax at the very period when the necessity for a contrary course became manifest in the United States; in fact, the decline of the English taste for malt liquors is coëval with its comparatively vigorous rise and development here. From 1760 to 1803 malt and hops were so heavily taxed in England, that they naturally ceased to form the essential ingredients of the beverage then offered for sale, under the alluring name of malt liquors; and the adulterations of the article, overstepping the limits of the average human stomach's forbearance, drove people from the use of that drink. As a consequence, great dissatisfaction prevailed throughout the three kingdoms. The English brewers were made the butt of much abuse and sarcasm.*

* “The tax on beer, early in the reign (George III.) had greatly exasperated the mob. The Royal Magazine tells that while their Majesties were at Drury Lane Theatre, to see the *Winter's Tale*, as Garrick was repeating the lines:

‘For you, my hearts of oak, for your regale,
Here's good old English stingo, mild and stale,’

a fellow cried out of the gallery: ‘At threepence a pot, Master Garrick, or confusion to the brewers!’

Imposts on malt were continually brought forward. The brewers as

Strange it would have been, indeed, had this state of things escaped the observation of American patrons of English malt liquors, or failed to bring about, in some degree, a revulsion of the prejudice in favor of that article. Naturally, American beer was given the preference, and deservedly, too, as the article manufactured here possessed all the qualities of good and pure English ales of the old standard, and none of the abominable qualities of the later decoctions. The best proof of this is in the fact, that, as early as 1790, Calcutta merchants—as James Mease tells us in his “Picture of Philadelphia,” published in 1810—having tasted American porter, and found it to be a wholesome, pure drink, able to bear the climate, ordered large quantities of it, in preference to the stuff they had been accustomed to import from England.

With these facts before him, the reader can not find it difficult either to draw his own, or fully understand our, conclusions as to the spirit of the first revenue law, in its bearing on the liquor traffic.

Specific duties upon *spirituous liquors* were adopted, first, because their general consumption offered a strong guarantee for their becoming a lucrative source of revenue; and, secondly, because, for moral reasons, popular sentiment seemed to exact them. But the force of either of these reasons, logically considered, must more or less attenuate that of the other, because they are based on opposite assumptions. The efficacy of the

well as their clients were wild. Mr. Whitbread inveighed on one occasion against the Ministry for laying a *war tax* upon malt. Sheridan, who was present, extemporized the following lines :

‘They’ve raised the price of table drink ;
What is the reason, do you think ?
The tax on *malt*’s the cause, I hear—
But what has *malt* to do with beer ?’

(*Nineteen Centuries of Drink in England by V. French.*)

duties in the one case, must necessarily be proportionate to their insufficiency in the other. The economist calculated upon a large consumption; the moralist, on the contrary, on a discouragement of the use of ardent spirits. Both masters could not be served in an equally efficient manner; for whatever was to be a gain to the treasury must inevitably be a loss to morality. But even this is not yet an entirely correct statement of the case; for, under the system adopted, it might occur—and did—that neither the fiscal nor the moral objects would be attained. Comparatively high duties might operate as a check on the importation of liquors, and that would be a loss to the treasury;—yet morality need not necessarily gain anything by it, since the check on the importation must unavoidably act as a correspondingly effective impetus to domestic manufacture. The contemplation of the latter contingency must naturally have suggested to the minds of the law-makers the necessity of resorting, in the near future, to an excise on distilled spirits; and the countervailing benefits to agriculture, anticipated in that case, may have silenced other remonstrances.

Protection, though strongly recommended as a helpmate to agriculture, was held subordinate to fiscal and moral considerations, save in the case of the distilleries of the New England States. The representatives of these States, while acknowledging the force of the ethical arguments, and admitting, as Ames did repeatedly, that a partial substitution of malt liquors would bring about a much-desired change of the general drinking habits and their results, insisted, very properly, that the moral aspect of their case should not prevail against its material requirements, when it was known beforehand that a contrary course would involve the welfare of a large part of the population. Here, the idea of protecting the domestic product overbalanced all other considerations.

On general principles, then, the members of the first Con-

gress admitted the desirability of diminishing the use of ardent spirits, but seeing the impossibility of realizing this *desideratum*, by the legislative enactments proposed, they agreed to draw from the vicious indulgence of a human craving the greatest attainable pecuniary and economic advantage.

An impost was placed on *malt liquors* for the express and sole purpose, and with the distinctly avowed intention, of encouraging and protecting domestic breweries, partly on account of the advantages offered by this manufacture to agriculture, but primarily and principally because it was universally conceived to be a moral corrective of great force; the only means by which the *desideratum* before-mentioned could be realized. Breweries were, by legal measures, to be *forced* into existence, encouraged, fostered and nurtured, so that their product, by its abundance, cheapness and quality, could become the common drink of the people.—This was the intention of that generation of law-makers, whom we of the present day look up to with reverence and grateful admiration, as to the founders of our civic happiness and material prosperity. And it is well to keep in view this indisputable historical fact, as, in the light of subsequent events and the present state of things, it serves as a gauge of the far-seeing wisdom, sound judgment and keen penetration of those legislators; and shows, by contrast, the perniciousness of measures advocated in our day—measures which, wherever adopted, have completely withered the inestimable fruits of temperance matured under the operation of wise laws.

CHAPTER II.

PRODUCT OF THE IMPORT DUTIES UNDER THE PRECEDING ACT. ADDITIONAL REVENUE NECESSARY. HAMILTON'S PROPOSITIONS. INCREASE OF SPECIFIC DUTIES, AND INTRODUCTION OF INTERNAL TAXES ON DISTILLED SPIRITS RECOMMENDED. HAMILTON'S VIEWS ON THE DESIRABILITY OF ENCOURAGING THE MANUFACTURE OF MALT LIQUORS, FOR MORAL REASONS. THE WORK OF THE SECOND SESSION OF CONGRESS. REJECTION OF EXCISE SYSTEM. ENACTMENT OF LAWS INCREASING IMPORT DUTIES, AND REGULATING COLLECTION THEREOF. HAMILTON'S REVENUE PROPOSITIONS AGAIN DISCUSSED IN NEXT SESSION OF CONGRESS. OPPOSITION TO EXCISE SYSTEM BY SOUTHERN MEMBERS. GROUNDS OF OPPOSITION. ENACTMENT OF LAW IMPOSING ADDITIONAL DUTIES ON IMPORTED, AND EXCISE DUTIES ON DOMESTIC SPIRITS. CONCLUSION AS TO THE SPIRIT OF THESE LAWS.

The act laying duties on imported goods, wares and merchandise was almost immediately followed by an act to regulate the collection of duties (approved July 30, 1789), establishing collection districts; designating ports of entry and delivery, and prescribing the mode of collection. In all fifty-nine collection districts were established, of which New Hampshire, Pennsylvania and Delaware formed one each, while in Massachusetts there were twenty districts; in Connecticut, three; in New York, two; in New Jersey, three; in Maryland, nine; in Virginia, twelve; in South Carolina, three, and in Georgia, four. North Carolina and Rhode Island, not having ratified the Constitution, were necessarily excluded for a time from the operation of this law, and, in some respects,

stood to the United States in the same relation as any foreign country. Thus, for example, an act, approved September 16th, 1789, provides that "all rum, loaf sugar, and chocolate manufactured or made in the States of North Carolina, or Rhode Island and Providence Plantation, and imported into the United States, shall be subject to the like duties, as goods of the like kinds, imported from any state, kingdom or country, are made subject to." *

The custom houses in the several States were not organized till at different periods, from the fifth of August to sometime in September, † and even then the machinery of collection could not be said to be in perfect working order. Hence the result of the operation of the law during the remainder of the year cannot be depended upon as a safe criterion of the pecuniary productiveness of the duties. Under date of March 4th, 1790, the Secretary of the Treasury reported that the net revenue from imposts and tonnage, from the 11th of August to the 31st of December, 1789, amounted to \$788,797.40. A large part of this sum was derived from the duties on malt liquors and distilled spirits. ‡ From the 1st of October, 1789, to the 30th of September, 1790, the gross product of the duties on imports amounted to \$2,130,224.; the net amount, minus discount, drawbacks and expense of collection, being \$1,903,709. According to the official exhibit of imports (see appendix) there were imported in the period

* In his tour of the Eastern States, after the adjournment of the first session of Congress, Washington purposely avoided Rhode Island. (See Hildreth, Vol. IV., p. 149.)

† Hamilton's report to the House of Representatives, April 22, 1790.

‡ The tables of Exports and Imports contained in the appendix to this book, begin with the year 1790. For their compilation, which required great skill and attention, I am indebted to the kindness of my friend Mr. W. Burchard, a statistician of large experience.

named: 90,813 gallons and 18,997 dozen bottles of beer, ale and porter; 3,844,441 gallons of spirits; 271,007 gallons of Madeira Wine, and 616,751 gallons of other wine; the duty on these imports yielding a gross revenue of over half a million dollars. If the net amount of the revenue obtained under the operation of the tariff act of July 4, 1789, be placed opposite the sum necessary for the maintenance of government and the payment of the annual interest on the public debt—both items amounting in the aggregate to \$2,839,163—it will be understood that an increase of means of revenue was unavoidable. Hamilton, in his report of the 14th of January, 1790, and again in his communication to the House of Representatives, dated March 4th, 1790, recommended an increase of the specific duties on imported spirituous liquors, and the introduction of a system of internal revenue. In the former report he says, dealing exclusively with wines, spirituous liquors, tea and coffee as objects of additional taxation:

“That the articles which have been enumerated, will, better than most others, bear high duties, can hardly be a question. They are, all of them, in reality, luxuries; some of them, *in the extent* in which they are used, pernicious luxuries. And there is, perhaps, none of them, which is not consumed in so great abundance, as may justly denominate it a cause of national extravagance and impoverishment. The consumption of ardent spirits, particularly, no doubt very much on account of their cheapness, is carried to an extreme which is truly to be regretted, as well in regard to the health and morals, as to the economy of the community.—Should the increase of duties tend to a decrease of consumption of those articles, the effect would be, in every way, desirable. The saving which it would occasion would leave individuals more at their ease, and promote a favorable balance of trade. As far as this

decrease might be applicable to distilled spirits, *it would encourage the substitution of cider and malt liquors, benefit agriculture, and open a new and productive source of revenue.*"

It required a degree of moral intrepidity commensurate with the many eminent qualities of Hamilton's mind and character, to recommend the adoption of a policy which, in the first session of Congress, was repeatedly rejected, although neither formally offered for consideration, nor directly discussed. In the face of previous Congressional debates on the subject, he could not ignore the unpopularity of the measures he proposed, nor is it probable that he failed to see how, in heeding the sacred voice of duty and obeying the dictates of necessity, he gave his opponents an enticing opportunity of posing as champions of the people's rights—an opportunity of which it was to be feared they would but too gladly avail themselves, at his expense. An easy matter under then existing circumstances! The American people had not yet become fully habituated to their sovereignty; they, in some measure, still looked upon the General Government as something above and outside of themselves, more or less antagonistic to their rights. And of these rights they were equally as jealous, as they had shown themselves capable of vindicating them. Owing to the methods of collection by which excises were usually rendered effective, these measures were generally regarded as oppressive; and the same was thought of any system that could have been proposed in prevention of smuggling; so that the propounder of such measures must as inevitably become a victim of public animosity, as the opponent an object of admiration. That Hamilton was fully aware of this fact, appears from his sagacious anticipation of the most telling objections to high duties—so far as they related to the danger of inviting evasions of the law—and to an excise system. In

his propositions relative to the public credit, advocating the loan of various sums of money sufficient to discharge the arrears of interest and to meet the obligations to be incurred by the assumption of the state debts, and laying out a plan for obtaining revenue for the payment of current obligations and expenses, he showed himself completely master of the financial situation; and, though his advice was, in some of its essential features, disregarded at first, he had the satisfaction, a year later, of seeing the majority of Congress converted to his views. In his allusion to the general drift of public sentiment regarding the abuse of spirituous liquors, he exhibited that spirit of moderation and tolerance which distinguish all his utterances and actions. Like Dr. Rush, the great temperance advocate of those days,* he was opposed, not to the moderate use, but to the vicious abuse of distilled spirits, and, convinced of the impossibility of summarily obliterating the evil of excess, deeply rooted in the habits of the people, he, with the majority of his enlightened contemporaries, conceived the idea of gradually undermining the habit by the introduction of a mild stimulant, invigorating the mind and strengthening the body.

That part of his revenue propositions which relates to the objects under present consideration, was sub-divided, as has been stated, into increased import duties and an excise on distilled spirits. The import duties were to be: on Madeira wine, thirty cents per gallon; on sherry, 25 cents; on other wines, twenty cents; distilled spirits from twenty to forty

* Nothing can be less justifiable than an attempt to corroborate, by reference to this author, the assertion that ardent spirits were at that period regarded as poison. Dr. Rush, in his "Account of the life and death of Edward Drinker" says approvingly: "The time and manner in which he used spirituous liquors, I believe, contributed to lighten the weight of his years, and probably to prolong his life. Give wine to him that is of a heavy heart, and strong drink to him that is ready to perish."

cents per gallon, according to their per cent below or above a given proof. The internal taxes were to be from eleven to thirty cents per gallon, on spirits manufactured from molasses and other foreign material; and from ten to twenty-five cents per gallon, on spirits distilled from domestic products;—the rate of tax to be determined, as in the former case, by the alcoholic strength of these liquors. Spirits distilled outside of cities, towns and villages were to be taxed at the rate of sixty cents annually for every gallon of the capacity of each still.

During the second session—lasting from January 4th to August 12th, 1790—the attention of the House of Representatives was so monopolized by the funding scheme, the proposed assumption of the State debts and the bill fixing the permanent seat of Government, that, beside the former propositions, little else of Hamilton's report reached a stage favorable to a thorough ventilation and dispassionate consideration. With his recommendation to assume the debts of the States, Hamilton had thrown the firebrand of discord into the House. The waves of sectionalism ran high, dashing furiously against the frail structure of harmony which the mediatory spirit of the preceding session had erected; and it was only by a compromise, effected at the eleventh hour, that a danger could be averted which seemed to threaten the very existence of government. The bill fixing the permanent seat of government offered a basis for this compromise. The Southern members wished to have the national capital on the banks of the Potomac (the bill was so worded); the members from the Eastern and Middle States were for the Susquehanna; the latter members for, the former against the assumption of the State debts. "Each measure," says Benton, "failed by small majorities; both were afterwards passed. Two members from the Potomac, who had voted against assumption, agreed to change their votes; a few from the Eastern and Middle States, who had

voted against the Potomac, agreed to change in its favor, and so the two measures passed.”*

The wrangling in the House only terminated with the close of the session; and it is owing to this dangerous dispute that the essential features of Hamilton's revenue propositions failed to obtain mature consideration; while his excise plan was rejected.

In addition to an act “to provide more effectually for the collection of duties”—embracing a few of the many correctives for the shortcomings pointed out by Hamilton as impediments in the way of realizing the object of the act of 1789, and extending also to Rhode Island and North Carolina, who had in the meantime ratified the Constitution—a bill was passed in this session, and approved August 10th, 1790, increasing the specific and *ad valorem* duties on articles imported into the United States; but only partly on the scale recommended by the Secretary of the Treasury. The Senate, who in the previous session had sided with the minority of the House in reducing the rates, now pursued the opposite course, encouraged, no doubt, by the strong indications of the groundlessness of the apprehensions regarding smuggling. An appreciable increase of revenue—though not as large as recommended—was thereby effected. The duties laid by this act on wines, distilled spirits, malt liquors, malt and molasses were as follows:

On Madeira wine of the quality of London particular, per gallon, thirty-five cents; other Madeira wine, per gallon, thirty cents; on sherry wine, per gallon, twenty-five cents; other wines, per gallon, twenty cents; on distilled spirits, of more than ten per cent below proof, twelve cents; if more than five, and not more than ten per cent.

* See Hildreth's History, Vol. IV., p. 210; and Benton's Abridgement, &c., Vol. I, foot-note page 250.

below proof, per gallon, twelve and one half cents ; if of proof, and not more than five per cent. below proof, per gallon, thirteen cents ; if above proof, but not exceeding twenty per cent., per gallon, fifteen cents ; if more than twenty, and not more than forty per cent. above proof, per gallon, twenty cents ; if more than forty per cent. above proof, per gallon, twenty-five cents.

On beer, ale and porter in casks, per gallon, five cents ; in bottles, per dozen, twenty cents.

On molasses, per gallon, three cents.

On malt, per bushel, ten cents.

The law to provide more effectually for the collection of duties was partially based on the views of Hamilton, who believed that the only expedient of conciliating high duties with a safe collection was the establishment of a second or interior scrutiny. The re-districting of States—now including Rhode Island and North Carolina—was also effected by this law. Thus, it will be seen, that the most important revenue measures, submitted at the beginning of the session, were ignored, while the causes which had dictated them were increased in magnitude and multiplied in form. Under such circumstances, the logic of events could not fail to compel the ultimate sanction of the modes and extent of taxation previously described, and it was to be foreseen that the insufficiency of existing laws would lay bare the untenableness of the position of those law-makers who opposed high duties from a fear of evasions of the law, yet were adverse to measures for the prevention of smuggling ; and opposed excises quite as strenuously as they objected to high duties. Where else was the requisite revenue to come from, unless direct taxation should be resorted to, which was equally abominable in the eyes of those legislators ?

A few days after the opening of the third session, (December 4, 1790), Hamilton renewed his propositions in relation to

an increase of the import duties, and the laying of internal duties on distilled spirits, recommending that the net product of these duties be applied to the payment of the annual interest upon the amount of the assumed State debts.* He proposed the following additions to the import duties on distilled spirits, which are specified in the Act of August 10, 1790.

On those of the first class of proof, per gallon,	eight cents.
“ “ second “ “ “	eight and a half cts.
“ “ third “ “ “	nine cents.
“ “ fourth “ “ “	ten cents.
“ “ fifth “ “ “	eleven cents.
“ “ sixth “ “ “	fifteen cents.

Furthermore, he proposed the following taxes on spirits distilled in the United States, namely:

If from molasses, sugar, or other foreign material, and

Of the first class of proof, per gallon, . .	eleven cents.
“ second “ “ “ . .	twelve cents.
“ third “ “ “ . .	thirteen cents.
“ fourth “ “ “ . .	fifteen cents.
“ fifth “ “ “ . .	twenty cents.
“ sixth “ “ “ . .	thirty cents.

* These debts amounted to \$31,000,000, the amount of interest thereon to \$788,833.33. The assumed debts of the various States were as follows:

New Hampshire.....\$300,000	Pennsylvania.....2,200,000
Massachusetts.....4,000,000	Delaware.....200,000
Rhode Island.....200,000	Maryland.....800,000
Connecticut.....1,600,000	Virginia.....3,200,000
New York.....1,200,000	North Carolina.....2,200,000
New Jersey.....800,000	South Carolina.....4,000,000
Georgia.....	800,000

If from materials of the growth and production of the United States, and

Of the first class of proof, per gallon,	.	.	nine cents.
“ second “ “	.	.	ten “
“ third “ “	.	.	eleven “
“ fourth “ “	.	.	thirteen “
“ fifth “ “	.	.	seventeen “
“ sixth “ “	.	.	twenty-five “

The oft-described apprehensions on account of the evasions of the law, to which high duties were supposed to give rise, were anticipated by Hamilton in these words:

“The expediency of improving the resource of distilled spirits, as an article of revenue, to the greatest practicable extent, has been noticed upon another occasion. There is scarcely an attitude in which the object can present itself, which does not invite, by all the inducements of sound policy and public good, to take a strong and effectual hold of it.—The mode of collection appears the only point about which a difficulty or question can arise. The Secretary begs leave to remark, that there appear to him two leading principles, one or the other of which must characterize whatever plan may be adopted. One of them makes the *security* of the *revenue* to depend chiefly on the *vigilance* of the *public officers*. The other rests essentially on the *integrity* of *individuals* interested to avoid the payment of it. * * * The oaths of the dealers have been almost the only security for their compliance with the laws. It cannot be too much lamented that these have been found *inadequate* dependence. But experience has, on every trial, manifested them to be such. Taxes or duties, relying for their collection on that security, wholly or almost wholly, are uniformly unproductive. And they cannot fail to be unequal as long as men continue to be discriminated by

unequal portions of rectitude. The most conscientious will pay most; the least conscientious, least."

In respect to excises, he showed that the system which it was contemplated to inaugurate, obviated the two great objections commonly urged against this mode of taxation, namely, the summary jurisdiction confided to officers of excise; and, secondly, the general power vested in these officers, of visiting and searching *indiscriminately* the houses and stores of dealers in excised articles.

On the 5th of January, a bill—modelled after Hamilton's propositions—repealing, after a certain time, the act laying duties on distilled spirits, &c., and imposing others in their stead, was taken up for consideration by the House of Representatives, and at once put to a crucial test, on a motion, made by Jackson (Florida), to strike out the essence of the first clause. This motion was rejected by a great majority,—and thus the ultimate fate of the measure seemed to be ascertained beforehand, with moderate accuracy. Jackson's exceptions to an excise, from a Southern point of view, are remarkable for more than one reason, the most interesting of them being the exact truthfulness of his statement relative to the climatic conditions which led the Southern people to the exclusive use of ardent spirits.

He thought the law would be particularly unpopular and oppressive in the Southern States because "the citizens of those States have no alternative to adopt, by which they can diminish the weight of tax; no *breweries or orchards to furnish a substitute for spirituous liquors*; hence these become a necessary article. They were not only necessary, but salutary in the Southern regions. This had been acknowledged by an Eastern author, Mr. Morse, an authority which he presumed would not be disputed by the Northern gentlemen, especially when it is considered that he is a clergyman. Mr. Morse declared that grog is a necessary article of drink in the Southern States."

Jackson was particularly severe in his strictures on the petition of the college of physicians, which had lately been read in the House, on the subject of distilled spirits. They might, he thought, with equal propriety interpose their offices to prevent the use of many articles which were deemed poisonous or of pernicious quality; they might, for instance, petition Congress to pass a law prohibiting the use of mushrooms, because some ignorant persons had been poisoned by eating that plant.

In giving vent to his opposition to excises on general principles, he fell into an error, common in those days with politicians of intellectual mediocrity; he referred to the unpopularity of excises in England, but either purposely or unwittingly ignored the fact, that the wide difference in the state of affairs of both countries absolutely precluded a rational parallelism. In England the rapacity of the government had, for so-called State reasons, unintelligible to the masses, abused the taxing power, in this form, to an extent, subversive of the material welfare of the people, as well as of their rights; whereas in our country this mode of taxation was adopted, in its least objectionable form, under stress of circumstances created by the people in their successful struggle for political independence. In England the tax included many necessities of life, and rose to a figure which placed before the manufacturer the alternative of abandoning an unprofitable business, or cheating the purchaser by the offer of spurious articles; whereas in the United States the tax extended to but a few articles of consumption, not absolutely necessities of life, and was, withal, so low that it could not affect the quality of the articles taxed. Parker (Virginia) objected to the manner of collecting internal duties, exaggerating—nigh unto ludicrous distortion—the infringements on the people's rights to which it was alleged the measure would give a clear field. "*It will*," he said, "*convulse the Government; it will let loose a swarm of harpies, who, under the denomination of revenue*

officers will range through the country, prying into every man's house and affairs, and like a Macedonian phalanx bear down all before them." These words are here typographically emphasized, because they sounded the keynote of that spirit of defiant opposition to which the American people owe the subsequent open resistance by the people of Western Pennsylvania to the execution of the excise law.

Jackson, Parker and Stone (the latter from Maryland) were opposed to the measure for the further reason, that, as they thought, no necessity existed for additional revenue. A simple reference, by Lawrence, to the exhibit of revenues derived from import duties and tonnage during the year ended in September, 1790, sufficed to reveal the fallacy of this assertion. The rejection of Jackson's motion closed that day's parliamentary combat, in which, by the way, the friends of the measure offered, in the matter of arguments, merely a passive resistance, very effectively opposing the *vis inertiae* to the rather virulent assaults from Southern members.

On the next day (January 6.) Parker moved to strike out the section specifying the rates of duties, and renewed his arguments against the mode of collection. The alternative of adopting an excise system, or resorting to direct taxes, and the preferableness of the former mode of taxation were pointed out by Madison, who confessed, that he also would oppose excises, if any other less objectionable mode of raising revenue could be devised. Lawrence adverted to the act of last session, by which the debts of the States were assumed, and the obligations of the General Government increased. He also pointed out the deficiency in the revenue already existing, and expressed it as his opinion that, in view of the pressing demand for additional revenues, the duties contemplated in the bill appeared the most obvious for the Government to recur to. A rigorous collection would bear hard only on the dishonest, while it would protect the fair trader from bearing an undue

proportion of the public burdens. He doubted whether direct taxes would be agreeable, even to the gentlemen who had mentioned them. Steele (North Carolina) feared that the situation of affairs in some of the Southern States, especially the one he represented, would help to breed great discontent at a system of excise. Such, he said, was the state of the public mind, in various parts of the Union, that he should dread taking any measures which serve to increase the fermentation which the people are in. An excise he considered of that nature. He thought a direct or poll tax, or duties on navigation, law proceedings, legal conveyances, etc., preferable to excises. One of his singular statements was, that the consumption of ardent spirits in North Carolina was so great, that the duty would amount to about ten times as much as in the State of Connecticut. Livermore (New Hampshire) liked the bill, and thought the people would; they would consider this mode of taxation as *drinking down the national debt*. He and Sedgwick (Massachusetts) defended the entire measure from a Hamiltonian standpoint, showing that the obnoxious features of English excise laws, which had been adverted to as evidences of the unrepugnant character of such taxation and its consequent unpopularity, were carefully avoided in the bill under consideration. Of all the subjects of revenue within the power of Congress, they deemed none so proper as the internal duty on ardent spirits contemplated by the bill. The import duties had been extended as far as sound policy dictated, and there remained only excises to be resorted to, unless direct taxes were to be adopted. Popular sentiment was more strongly opposed to the latter taxes than to an excise duty on spirituous liquors. Furthermore, Sedgwick said, it should be observed that in all insensible modes of taxation a much greater sum would be obtained from an individual than by any mode of direct imposition: this, without entering into a discussion of the reasons upon which it was founded, could

be demonstrated by a fact. He instanced the porters of London, from whom, in the single article of beer, was drawn ten times as much as could be procured by the most rigorous mode of direct taxation. Though he attached no weight to the moral considerations urged against the great consumption of ardent spirits, he thought a diminution in the consumption of those liquors would not be attended with any sensible inconvenience.

The imputation of a lack of patriotism, which some of the Southern members had cast on their own States, evoked a very energetic protest from Smith (of South Carolina), who felt convinced that the Southern people would submit without complaint to any measures which the General Government would see proper to adopt; and all the more willingly would they do so in this case, when, seeing and judging for themselves, they would find the tax proposed to be equal and just. On the 21st of January, a unique bit of discussion on what to-day would be styled civil service reform took place, on the motion to amend the bill, by adding a clause to prevent inspectors, or any officers under them, from interfering in elections, further than giving their own votes. The arguments in favor of this amendment form a forecast of the circumstances which gave birth to the law on the same subject, in force at the present time; hence, to the members using them would have to be accorded credit for great foresight, were it not for the fact that the pictures they drew of possible abuses of official power were borrowed from English examples. It was feared that the power vested in inspectors would give these officers many opportunities of acquiring such a knowledge of persons and characters, as would enable them unduly to influence election results. On the other hand it was contended that to prevent any citizen from publicly or privately uttering his opinions on political affairs, would be equivalent to depriving him of rights, inalienably vested in citizenship.

Citizens of good character and standing in the community would not accept an office coupled with such a degrading condition, and the Executive would consequently be compelled to appoint irresponsible persons, alike willing to take the office and suffer the degradation. This rather exalted view of the matter prevailed with a large majority of the members; the vote on the adoption of the amendment being: Yeas, 21; Nays, 37. With this vote, the virulent opposition to the bill, fomented at the beginning of the discussion by resolutions passed by the Pennsylvania Legislature, and demonstrations of discontent from other quarters,* sullenly yielded; and on the 27th of January the bill passed the House by a vote of 35 to 21.

Smith, who had so manfully vindicated the honor of the Southern States, voted *for* the bill; so did four members from Virginia, namely: Madison, Griffin, Lee and White. Altogether, only five Southern votes were cast for the bill. Two members from New York and three from Pennsylvania voted with the majority of Southern representatives *against* the act.

As finally passed, the act, (approved March 3, 1791) embraced the essence of Hamilton's suggestions. The import duties on distilled spirits were fixed as follows:

For every gallon of spirits, more than ten per cent below proof, twenty cents.

For every gallon of spirits under five and not more than ten per cent below proof, twenty-one cents.

For every gallon of spirits of proof, and not more than five per cent below proof, twenty-two cents.

For every gallon of spirits above proof, but not exceeding twenty per cent, twenty-five cents.

* The succeeding chapter treats at some length of these demonstrations of discontent.

For every gallon of spirits more than twenty, and not more than forty per cent above proof, thirty cents.

For every gallon of spirits more than forty per cent above proof, forty cents.

Here is the text or purport of the principal sections relating to excise duties :

SECTION 14. And be it further enacted, That upon all spirits which after the last of June next, shall be distilled within the United States, wholly or in part from molasses, sugar or other foreign materials, there shall be paid for their use the duties following; that is to say:—For every gallon of these spirits more than ten per cent. below proof, according to Dicas' hydrometer, eleven cents. For every gallon of those spirits under five and not more than ten per cent. below proof, twelve cents. For every gallon of these spirits of proof, and not more than five per cent. below proof, thirteen cents. For every gallon of those spirits above proof, and not exceeding twenty per cent., fifteen cents. For every gallon more than twenty, and not more than forty per cent. above proof, twenty cents. For every gallon more than forty per cent. above proof, thirty cents.

SECTION 15. That upon all spirits, which after the last day of June next, shall be distilled within the United States, from any article of the growth or produce of the United States, in any city, town or village, there shall be paid for their use the duties following; that is to say:—For every gallon more than ten per cent. below proof, according to Dicas' hydrometer, nine cents. For every gallon under five and not more than ten per cent. below proof, ten cents. For every gallon not more than five per cent. below proof, eleven cents. For every gallon above proof, but not exceeding twenty per cent., thirteen cents. For every gallon more than twenty and not more than forty per cent. above proof, seventeen cents. For every gallon more than forty per cent. above proof, twenty-five cents.

SECTION 16. That the said duties on spirits distilled within the United States shall be collected under the management of the Supervisors of the Revenue.

SECTION 17. That the said duties on spirits shall be paid or secured previous to the removal thereof from the distilleries at which they are respectively made. And it shall be at the option of the proprietor or proprietors of each still either to pay the said duties previous to such removal, with an abatement at the rate of two cents for every ten gallons, or to secure the payment of the same, by giving bond quarter-yearly, with one or more sureties, to the satisfaction of the chief officer of inspection within whose

survey such distillery shall be, and in such sum as the said officer shall direct, with the condition for the payment of the duties upon all such of the said spirits as shall be removed from such distillery, within three months next ensuing the date of the bond at the expiration of nine months of the said date.

SECTION 18. That the Supervisor of each district shall appoint proper officers to have the charge and survey of the distilleries within the same, assigning to each one or more distilleries as he may think proper, who shall attend to such distilleries at all reasonable times, for the execution of the duties by this act enjoined on him.

SECTION 19. That previous to the removal of spirits from any distillery, the officer within whose charge and survey the same may be, shall brand or otherwise mark each cask containing the same, in durable characters, and with progressive numbers, and with the name of the acting owner or other manager of such distillery, and of the place where the same was situate, and the quantity therein, to be ascertained by actual guaging, and with the proof thereof. And the duties thereupon having been first paid or secured, as above provided, the officer shall grant a certificate for each cask of the said spirit, to accompany the same wheresoever it shall be sent, purporting that the duty thereon hath been paid or secured, and describing each cask by its marks; and shall enter in a book for that purpose to be kept, all the spirits distilled at such distillery, and removed from the same; and the marks of each cask, and the persons for whose use, and the places to which removed and the time of each removal, and the amount of duties on the spirits so removed. And if any of the said spirits shall be removed from any such distillery without having been branded or marked, or without such certificate, the same, together with the cask containing, and the horses or cattle, with the carriages, their harness and tackling, the vessel or boat with its tackle and apparel, employed in removing them, shall be forfeited, and may be seized by any officer of inspection. And the Superintendent or manager of such distillery shall also forfeit the full value of the spirits so removed, to be computed at the highest price of like spirits in the market.

SECTION 20. That no spirits shall be removed from any distillery at any other times than between sun rising and sun setting, except by consent and in the presence of the officer having the charge and survey thereof, on pain of forfeiture of such spirits, or of the value thereof at the highest market price, to be recovered with costs of suits from the acting owner, etc.

SECTION 21. That upon stills which after the last day of June next shall be employed in distilling spirits from materials of the growth or pro-

duction of the United States, in any other place than a city, town or village, there shall be paid for the use of the United States, the yearly duty of sixty cents for every gallon, English wine-measure, of the capacity or content of each and every such still, including the head thereof."

SECTION 23 prescribes that duties shall be paid half-yearly upon demand by the officer of the survey; and that in case of failure to pay, the amount of duties due may be recovered, with costs, in action of debt, or may be levied by distress and sale of goods of delinquent distiller.

SECTION 24 gives distillers the right to keep an account of the quantities of spirits distilled and sold; which account, if sworn to and submitted to the proper officers, shall form the basis of computing the taxable quantity of spirits distilled.

SECTION 25 makes it incumbent on distillers to place a sign upon a conspicuous part outside and in front of each building used for distilling or keeping ardent spirits; also to make entry of every such building at the nearest office of inspection.

SECTION 26 authorizes inspectors to visit distilleries, take account of spirits, brand casks, keep registry of stock, give certificates to distillers, etc.

SECTION 36 provides that the penalties imposed on distillers for neglecting to make report to inspectors of their intention of distilling spirits, or for neglecting to mark the houses, apartments or vessels to be employed, or for neglecting to enter in books the quantity distilled, shall *not extend to any person employing one still only, and that of a capacity not exceeding fifty gallons, including the still-head.*

SECTION 60 pledges the net product of duties under this act for the payment of the interest on loans made prior to the fourth of August, and to be made pursuant to the Act "making provision for the debt of the United States."

As to the spirit of this law, it will be noticed, in respect to high rates of import duties, that the act indicates a striking mutation of opinions, for which various explanations may be offered. In the first place, the necessity for introducing the much-dreaded excise system, as the lesser of two evils—the alternative of direct taxation being considered the greater—reconciled the opponents of high rates of imposts with a system which, even if carried to the utmost limits proposed, was in their opinion still the least objectionable of these three modes of raising revenue. And their opposition naturally diminished in proportion to the growth of their desire to restrain the excise within narrow bounds. More potent, at all events more direct in its influence, than this reason, was the conviction, rapidly gaining ground, that high duties on imported articles could be made collectable, without recourse to obnoxious measures of supervision and control. The productiveness of the duties under the Acts of July 4th, 1789, and August 10th, 1790, imposing comparatively high rates, helped to form this conviction, and Washington's favorable account of the operation of both laws strengthened it. A further explanation may be found in the growing inclination to protect certain manufactures; but it must be remarked in this connection that the excise on distilled spirits neutralized in a degree the protective agency of import duties imposed by the foregoing law. It is, indeed, a most singular characteristic of the debates on the subject, that the deviation from the rule of incidental protection, established during the preceding sessions, a deviation, whose results were easily to be foreseen, failed to elicit any serious adverse criticism. That the protective idea was temporarily lost sight of, so far as distilled spirits are concerned, cannot be gainsaid. The Act of 1790 imposed an import duty of from twelve to twenty-five cents per gallon, according to proof; the Act of March 3, 1791, fixed a like duty at from twenty to forty cents. Now, if the rates of the excise duties

imposed by the latter law, namely, from eleven to thirty cents per gallon, according to strength, be deducted from the rates of import—as deducted they must be, if the ability of the domestic article to compete with the foreign product is to be determined—it will be seen that the protective duties were diminished, as compared with those imposed by the Act of 1790, by from three to fifteen cents.* That this inequality, which in view of the avowed intention of the legislative majority may be termed an anomaly, occurred merely by an oversight, will be shown in the next chapter.

In regard to the excise duty, the strictures of the refractory minority were dictated not so much by the solicitude usually felt in reference to measures threatening, or seeming to threaten, the liberty of citizens, as by an intense selfishness, jealous of the material interests of a few localities, indifferent to the welfare of the whole Union. Subsequent events prove that this selfishness, conspiring with the popular prejudice against excises in general, served partly as a lever, partly as a mask for an incipient cabal, which ended by becoming a line of demarcation between two great political parties. It is true that any excise system, however liberally constituted and leniently carried out, would have been unpopular; but it is historically demonstrable that the unpopularity of this particular measure would have occasioned no serious disturbance, had not the malevolence of ambitious aspirants for political fame—or notoriety—resorted to inflammatory means for purposes of its own, and had not radical differences of political opinion helped to create a feeling of antagonism to the administration, an antagonism proceeding no doubt from pure motives in most instances, from questionable motives in some, but in all from a total misconception of the administration's purposes. The

* The excise duty on spirits from foreign material is, of course, referred to.

attempt to justify the opposition to excise duties on spirituous liquors, on the ground that these articles of consumption were necessities of life, failed to make any impression; for, though it may have been admitted that in some localities and under certain circumstances, the *moderate* use of ardent spirits was indispensable to physical comfort, yet the *excessive* consumption could not by any manner of reasoning be made to appear as necessary for the proper sustenance of life.

The most significant fact in connection with the discussion on this law is the general approval—outspoken at times, tacit and implied at others—of the moral tendency, sought to be established as a policy in relation to the liquor traffic. Hamilton's words, quoted in this chapter, were but the echo of a popular sentiment which even pervaded the speeches of those members of Congress, who opposed the taxing of ardent spirits. When Jackson, for instance, in his bitter speech against the excise law, said that the Southern people had "no breweries or orchards to furnish a substitute for spirituous liquors," he virtually confessed himself a supporter of the policy which Madison, voicing the sentiment of *all* his colleagues, * formulated in the first session, when he spoke in favor of encouraging and protecting American breweries for moral purposes, and uttered the hope that this industry would take deep root in every State of the Union. The excise law is but another illustration of this sentiment, inasmuch as it treats *exclusively* of distilled spirits.

* In all the debates on this subject, not *one* word was uttered either against the moral or economic reasons urged in favor of this policy.

CHAPTER III.

REVIEW OF THE ORIGIN, NATURE AND EXTENT OF THE DISCONTENT PROVOKED BY THE EXCISE LAW.—OPPOSITION TO HAMILTON'S FISCAL SYSTEM.—JEFFERSON'S ATTITUDE.—THE ALARMING STATE OF AFFAIRS IN WESTERN PENNSYLVANIA.—BRIEF REVIEW OF OUTRAGES COMMITTED UPON EXCISE OFFICERS UP TO THE END OF 1791.—HAMILTON'S REPORT ON MANUFACTURES, AND ON THE EXCISE LAW.—HIS RECOMMENDATIONS ON BOTH SUBJECTS.—ACT INCREASING DUTIES ON DISTILLED SPIRITS AND MALT LIQUORS.—PROTECTIVE FEATURES OF THIS ACT.—MODIFICATION OF THE ACT FOR LAYING INTERNAL DUTIES ON SPIRITS.

Little doubt can exist that the discontent provoked in some localities by the act laying duties on spirits distilled within the United States, derived a potent impetus from the inflammatory agitations of the enemies of Washington's administration; but it must be remembered that a strong repugnance to excises,* ingenerated by British misrule, had, years before the enactment of the present law, found vent in such official documents as may justly be termed the prototypes of the anti-excise resolution passed by the Pennsylvania Legislature, on the 22d of January, 1791. The changed condition of affairs,

* "The colonists had brought with them from England a deep aversion to excises, which perpetuated itself, unabated, from generation to generation. The first Congress, in its address of October, 1774, to the inhabitants of Canada, laid particular stress on the imposition of excises as one of the evils accompanying subjection to England. In the nullification convention of New York, it was proposed that the power to impose excise duties on any article which grew or was manufactured in America, should be expressly denied to Congress." (Holst's Constitutional and Pol. Hist. of the U. S. Chicago, 1877, Vol. I, p. 94.)

by which the rebellious subjects of a monarchy became the sovereign citizens of a republic of their own creation, did not essentially change popular sentiment in regard to excises generally; and it was to be feared that in localities on which the burden of taxation must fall with particular weight, the dissatisfaction naturally aroused by measures militating against self-interest, would occasion some difficulties in collecting the taxes. There was all the more reason for this apprehension as to Pennsylvania, seeing that the Legislature of that State had, with a large majority,* passed the above-mentioned resolution, characterizing the excise law, before its passage, as having a tendency to destroy the rights and liberties of their constituents. And this in the face of the fact, that at various times during the Revolutionary war and the period succeeding it and preceding the permanent establishment of the National Government, excise taxes had been levied on distilled spirits by the local authorities of Pennsylvania—taxes which, it must be added, however, the distillers displayed little alacrity in paying. That Pennsylvania was from the beginning, and for a number of years remained, the most dangerous seat of the opposition against the new law, will be readily understood in the light of the description before given of the state of the liquor traffic. So general had the manufacture of ardent spirits become in Pennsylvania, that as early as 1779 the Assembly enacted a law to prevent distillation of all kinds of grain or meal, being induced to this act by the threatening aspect, both moral and economic, of a consumption of ardent spirits almost fabulous. "In many parts of the country," says Findley in his *History of the Insurrection*, "you could scarcely get out of sight of the smoke of still-houses." Famine and demoralization of the people were regarded as the inevitable results of such a state of affairs. In October, 1779, this pro-

* The vote on the passage of the resolution stood: Yeas, 40; Nays, 16.

hibitory law was repealed and permission granted to distill rye and barley ; an excise tax being then again levied on every gallon of ardent spirits distilled within the State. But neither law seems to have had the slightest effect upon the extent of the manufacture of distilled spirits. After their passage, as before, nearly every farmer distilled his own whiskey and deemed it his inalienable right to evade the tax, and resist the collector whenever a favorable opportunity presented itself for doing so. Open violence was resorted to in few isolated cases only, and in these, though involving no fatal casualties, the courts of law speedily meted out justice to the rioters.

In view of the state of the public mind on the subject, and the condition of things generally, the Pennsylvania Legislature must at least be held accountable for having added fuel to the fire, by the adoption of a resolution which every one of their constituents could, by a slight stretch of conscience, construe as a justification for whatever means he chose to employ in the defence of rights so wantonly (!) violated.

This resolution reads as follows :

The Legislature of this Commonwealth ever attentive to the rights and liberties of their constituents, and conceiving it a duty incumbent on them to express their sentiments on such matters of a public nature as in their opinion have a tendency to destroy those rights, agree to the following resolutions, namely :

Resolved, That in the proceedings on the part of the United States, tending to the collection of a revenue by means of excise established upon principles subversive of the peace, liberty, and rights of the citizen, ought to attract the attention of this House.

Resolved, That no public exigency within the knowledge or contemplation of this House, can, in their opinion, warrant the adoption of any species of taxation which shall violate those rights which are the basis of our government, and thereby exhibit the singular spectacle of a nation resolutely opposing the oppression of others in order to enslave itself.

Resolved, That these sentiments be communicated to the Senators representing the State of Pennsylvania in the Senate of the United States, with

the hope that they will oppose every part of the Excise Bill now before Congress, which shall militate against the just rights and liberties of the people.*

Gallatin (subsequently Secretary of the Treasury), Findley and others, who are said to have either openly fomented or secretly abetted the violent opposition to the law, endeavored to defend the resolution on the ground that it was the right of every State Legislature to express their opinions as to proposed or adopted measures of the Federal government. This right was not seriously questioned at all; it was undoubtedly the right of the Pennsylvania Legislature to give expression to their views, but it was wrong under then existing circumstances to exercise this right—wrong from a patriotic point of view to do aught which, by shaking the confidence scarcely re-established by dint of heroic efforts on the part of Washington and his cabinet, could not but imperil the welfare of the commonwealth. That the majority favoring the adoption of the resolution lacked that degree of foresight which would have enabled them to estimate beforehand the dangers their conduct invited, may readily be assumed without further proof; but history points to a clique of politicians who instigated this short-sighted, yet well-meaning legislative majority, and did so with the determination of bringing about evils they had persistently presaged, and ardently wished for. In them, the act was much worse than wrong. In the subsequent development of the insurrectionary spirit incited by them, they but too palpably evinced their malevolence, showing that what they alleged to have been the outcome of their sympathy with, and desire of expressing, a popular sentiment, was, in verity, an artifice designed to cover their enmity to the National Administration, an enmity which soon stalked forth boldly, making Hamilton its central point of attack. And this inimical attitude was

* Journal of the Legislature, 1791, p. 110.

neither confined to the one locality nor to the one cause here in question. The bitter struggle over the Assumption Bill only marks the beginning of a relentless political warfare against the Administration, particularly against Hamilton's fiscal system. The Virginia Assembly had passed a resolution denouncing assumption "as repugnant to the Constitution, giving to it the exercise of a power not granted to the General Government; a measure particularly injurious to the interests of Virginia, an act impolitic, unjust, odious and deformed; one which republican policy could scarcely have suggested as intended to concentrate and perpetuate large moneyed interests, which would produce a prostration of agriculture at the feet of commerce, or a change in the present form of the Federal government, fatal to American liberty."* In North Carolina and Maryland a similar spirit had been aroused and found vent in resolutions antagonistic to Hamilton's financial schemes. The secret enemies of Washington, and open adversaries of Hamilton, spread the most astounding reports as to the intentions and aims of the Administration. Washington, too popular and too highly esteemed to be openly charged with unpatriotic motives, was represented as being the tool of a party headed by Hamilton and Adams, whose policy, it was alleged, tended to pave the way for a change of government from a republican to a monarchical form. Although as yet little credence was accorded to such reports outside of the disaffected localities, it was evident that the Administration must be prepared to meet an opposition as virulent as it was, in some respects, unjustified. The formation of the minority into a compact political party had begun, and the leaders were casting about for material wherewith to erect a distinctive politi-

* "This is the first symptom of a spirit," was the language of Hamilton to the Chief Justice, "which must either be killed, or will kill the Constitution of the United States." (*History of the Republic*, by J. C. Hamilton. Vol. IV., p. 479.)

cal basis. Apprehensions on that account were all the more warranted as the least placable of Hamilton's opponents, Jefferson, held the foremost administrative office under Washington, and was, indeed, the most gifted, as he surely was the noblest and most patriotic of the leaders of the opposition. It would seem, as if his ardent love of liberty, partaking somewhat of the character of French republicanism of those days, rendered him unduly suspicious of his surroundings, and, clouding his usually bright intellectual vision, made him see dastardly schemes for the destruction of the American Republic, where, in truth, there was but the most self-sacrificing devotion to the country's welfare.

"Hardly was Jefferson warm in his new office as a member of the cabinet," says Hildreth,* "when he appears to have adopted the idea, founded, it would seem, on casual expressions of speculative opinion dropped in the freedom of unreserved social intercourse, that a conspiracy was on foot, headed by Adams and Hamilton, to overturn the republican institutions of the United States, and to substitute a monarchy and an aristocracy in the place, the monarchy being principally patronized by Hamilton, and the aristocracy by Adams, and both being inclined to give the wealthier and more intelligent few a very disproportionate influence in the government. Though a great advocate for toleration and liberality in matters of religion, in politics Jefferson was a consummate bigot. One single speculative error outweighed, in his estimation, the most devoted patriotism, the most unquestionable public service." Professor v. Holst, writing of the compromise by which the Assumption Bill was passed, an expédient which he characterizes as the first unmistakable indication of a geographical party division, asserts, as do nearly all competent historians, that "Jefferson, when he believed there was no danger that his words would

* History of the United States, Vol. iv., p. 297.

be whispered in wider circles, gave full vent to his secret animosity against Washington." * It would surely be a venturesome undertaking, to establish any direct connection between the revolt in Pennsylvania and the animosity of Jefferson against the Administration, although Jefferson styled the excise duty an "infernial error," and held Hamilton's system to be founded on "principles inimical to liberty," and calculated to undermine the Constitution. Yet it must be conceded, that his antagonism and the manner in which it was manifested, strengthened the opposition generally, and gave nourishment, perhaps against his will and wish, to the insurrectionary spirit of the people of Western Pennsylvania. Under such circumstances the solidification of the opposition party progressed rapidly, and the seed of discontent was being sown broadcast, even while the measures proposed and carried out by the executive departments were bringing forth blessings which, to use Washington's words, three years ago it would have been madness to have foretold. It was necessary to digress thus briefly from the subject in hand, to show that the discontent at the excise, though springing, as has been shown, from prejudices and preconceived ideas alike powerful and unreasonable, and especially dangerous for being the one *and* the other, would not seriously have disturbed the tranquility of the nation, particularly under the beneficent influences of a prosperity almost miraculously restored, had it not been indirectly nurtured by men of eminence and popular power, and used by others to serve a purpose foreign to its original ends and objects.

The spirit of resistance was most violently manifested in the western counties of Pennsylvania, because, as Findley—one of its prime instigators—says, the people of that locality anticipated peculiar hardships from the excise. "Without money

* Pol. & Const. Hist. Vol. I, p. 88.

or the means of procuring it, and consuming their whiskey only in their families or using it as an article of barter, which though in some respects answered the place of money, yet would not be received in pay for the excise tax, they thought it hard to pay as much tax on what sold with them but at from two shillings to two shillings and six pence, as they did where it brought double that price."* From this it might be inferred that a modification of the law would have allayed the excitement prevalent among the inhabitants of those localities; but the truth is, that Findley himself, who was afterward elected to represent his State in the second Congress, and his coadjutors did everything in their power to prevent a pacific solution of the question. While a member of the Pennsylvania Legislature he intimated, in an entirely unguarded manner, that *no* taxes should be paid at all, and the excise officers made to feel the full weight of popular indignation. And the latter recommendation was by no means a figurative phrase. The predominant opinion among the people of those counties, an opinion stimulated by men of Findley's calibre, was, that to restrict distillation in any manner, however legitimate, or to impose taxes upon what they deemed a necessary of life, must be regarded as a violation of "natural rights"—a term used in the petition of the citizens of Westmoreland. Yet even this disposition, dangerous and deplorable under any circumstances, would not of itself have brought about a conflict of the people with the government; it required the devices and artifices of the demagogue, to fan the embers into flame;† and the demagogue was industriously at work.

* Findley's History of the Insurrection, p. 41.

† Washington writing of his tour through the Southern States, in some of which sentiments prevailed similar to those entertained in Western Pennsylvania, states that he found everywhere a ready acquiescence to the laws made under the new government. "At the time," he wrote, "of passing a law imposing a duty on home-made spirits, it was vehemently affirmed by

As early as July 27, 1791, hence a few weeks after the beginning of the operation of the law, but ere yet the first excise office had been opened in any of the western counties of Pennsylvania, the movement for an open opposition was inaugurated. On the day mentioned, an indignation meeting was held at Red Stone Old Fort (now Brownsville), attended by delegates from the counties of Westmoreland, Allegany, Washington and Fayette. Prominent citizens were present at this meeting, among them Albert Gallatin. The resolutions adopted characterized the act of Congress as "unequal in its operation, immoral in its effects, dangerous to liberty, and especially oppressive to the inhabitants of the Western country." A thorough organization of all citizens opposed to the law was recommended, and preliminary arrangements were made for organizing county committees, who were either to attend *in corpore*, or be represented at a general convention to assemble at Pittsburgh on the 7th of September, for the purpose of planning concerted action. Previous to the latter date the committee for Washington county—the seat of the greatest turbulence—adopted resolutions declaring that "any person who had accepted, or may accept an office under Congress, in order to carry the law into effect, should be considered as inimical to the interests of the country," and urging upon the citizens of Washington county the expediency of "treating every person who had accepted such office, or might thereafter accept, with contempt, and absolutely to refuse all kind of communication or intercourse with the officers and withhold from

many, that such a law could have never been executed in the Southern States, particularly in Virginia and North Carolina. I took some pains to obtain information on this point and there remains no doubt that the law will be carried into effect, not only without opposition, but with general approbation, in those very parts where it was foretold that it would never be submitted to by any one. It is possible, however, and perhaps not improbable, that some demagogues may start up and produce and get signed some resolutions declaratory of their disapprobation of the measure.

them all aid, support or comfort."* The general meeting held at Pittsburgh (September 7, 1791) entered into resolutions more comprehensive in their objects and less inflammatory in their tendency, than those which had before passed the meeting in Washington. Their resolutions contained severe censures, not only on the law which was the immediate subject of objection, but upon what they termed the exorbitant salaries of officers, the unreasonable interest of the public debt, the want of discrimination between original holders and transferees, and the institution of a national bank. A representation to Congress, and a remonstrance to the Legislature of Pennsylvania against the law more particularly complained of, were prepared and published.

On the day before the meeting the opposition broke out in an act of violence upon the person and property of Robert Johnson, collector of revenues for Allegany and Washington. Waylaid and seized by a masked party, at a place on Pidgeon Creek, in Washington County, he was robbed of his horse, tarred and feathered, clipped of his hair, and left in that condition to make his way home as best he could. Having recognized some of his assailants in spite of their masks, he procured warrants for their arrest. The serving of the processes was confided by marshal Clement Biddle to his deputy, Joseph Fox, who, going into Allegany, in the month of October, to discharge this duty, took alarm at the threatening aspect of things, and fearing for the safety of his person, resorted to what Hamilton disapprovingly styled the injudicious and fruitless expedient of sending them by private messenger under cover.† The deputy's report to his superior officer contained

* The description of the disturbances from this meeting onward is almost literally taken from Hamilton's "Report on the opposition to internal duties." Hamilton's Works, Vol. iv., 578.

† Findley, who avidiously seized every incident by which the insurrectionary movement could in any degree be justified, criticises this unwise

many particulars evincing a considerable fermentation in the locality in question, and inducing the belief that the processes could not with safety have been executed. Indeed, the person who had been sent with the processes was seized, robbed, whipped, tarred and feathered, blindfolded, and tied in the woods, in which condition he remained five hours.

Other outrages of a similar character soon followed. Wells, collector of revenue for Westmoreland & Fayette, was ill-treated at Greensburgh and Union Town. About the same time a demented person of the name of Wilson, a stranger in those parts, laboring under the unfortunate delusion that he was officially connected with the revenue service made inquiries in reference to stills, pretending that he was instructed to report to Congress the names of the distillers who had entered their places of business according to law. Pursued and captured by a party of masked regulators, the poor idiot was dragged to a blacksmith's shop, a distance of five miles from the place of his capture, stripped of his clothing, repeatedly branded with hot irons, tarred and feathered, and then turned

course in these words: "If the inspector could have contrived a surer method to degrade the government in the esteem of the rioters, and invite insults, it is beyond my comprehension; and unhappily the poor man, who was ignorant of what he was doing, was the victim of this injudicious plan. What better could the inspector expect? If the people were well disposed, where the process was to be served, why discourage the marshal from going forward? If they were not well disposed, why send a poor creature who, not knowing what he delivered, could not give testimony of his having served the processes?" [*Findley either unconsciously or wilfully confounds the story of the idiot, named Wilson, with that of the private messenger sent by Fox.*] "The authority of a commission from government, and the respectability attached thereby to the person that bears it, generally procures a degree of reverence to an officer of justice. The sheriff or constable will be respected where the officious bum will probably be flogged." [*History of the Insurrection, page 69.*] Findley seems to forget that collector Johnson and other excise officers learned to their sorrow that their commission secured them no sort of reverence.

loose in this pitiable state. These outrages were not confined to officers of the revenue, however ; everybody who ventured to express an opinion favorable to the law was treated in like manner, as was shown in the case of a man of the name of Roseberry, who was tarred and feathered for remarking that the inhabitants of Washington county could not reasonably expect protection from a government whose laws they so strenuously opposed. Persons who had been summoned as witnesses against the rioters in the case of Wilson were seized and carried off, in order to prevent their giving testimony in court, and all well-disposed citizens were systematically terrorized. A recent writer terms these outrages " practical jokes," and seeks to exonerate the prominent citizens and office-holders, who had partaken in the meetings before-described, from the reproach of having sanctioned or even tacitly approved any acts of violence. This is evidently an opinion based on Findley's description of the troubles ; but even the most charitably disposed will scarcely deem it tenable, in view of the undeniable fact that open violence was simply the natural consequence of the spirit pervading some of the resolutions adopted at those meeting ; that nothing was done to allay the excitement by those who had fomented it, and, finally, that the law could not be executed in those counties, and remained a dead letter for over three years.

Hamilton explains the comparatively passive attitude maintained by the National Government subsequent to these outrages and before the assembling of Congress, in these words :

"It seemed highly probable, from the issue of the experiment which had been made, that the ordinary course of civil process would be ineffectual for enforcing the execution of the law in the scene in question, and that a perseverance in this course might lead to a serious concussion. The law itself was still in the infancy of its operation,

and far from established in other important portions of the Union. Prejudices against it had been industriously disseminated, misrepresentations diffused, misconceptions fostered. The Legislature of the United States had not yet organized the means by which the Executive could come in aid of the Judiciary, when found incompetent to the execution of the laws. If neither of those impediments to a decisive exertion had existed, it was desirable, especially in a republican government, to avoid what is in such cases the ultimate resort, till all the milder means had been tried without success. It was deemed wise to forbear urging harsh measures, till further reflection and experience had corrected false impressions, and till the National Legislature had an opportunity to modify the law."

Before considering the propositions submitted to Congress in Hamilton's report on the subject of excises, it is necessary to make mention of two other reports, closely related to the liquor traffic; the one is Hamilton's justly renowned report on manufactures,* the other his plan for raising additional revenue for the protection of the Western frontiers,† submitted December 5, 1791, and March 17, 1792, respectively.

The former report, demonstrating the expediency of encouraging domestic manufactures, as a means of creating a home market for the surplus of agricultural produce, to which some of the principal foreign markets were closed at the time, includes, among the manufactures to be encouraged and protected, breweries and distilleries. It must have been remarked that all utterances heretofore quoted revealed a strong inclination to protect and encourage at least those manufactures which, to use an oft-repeated phrase, were generally regarded as handmaids to agriculture. Whatever opposition was brought

* American State Papers, (Finance), Vol. I, p. 123. † Ibid., p. 159.

to bear against this inclination so far as the two beforenamed manufactures from grain were concerned, was directed against the manner of doing the thing. In this respect, however, the more recent laws, and the discussions had thereon, show a marked change of opinion. As to ardent spirits it was now pretty generally admitted that it would be wise—since they must, from their great consumption, form one of the principal sources of revenue—to give preference to the domestic product over the foreign article. As to malt liquors the opinion predominated, and very decidedly too, that, equally profitable to agriculture, they should be fostered as a means of diminishing the use of the former liquors and thus improve the moral status of the people. Hamilton's report is conceived entirely in this spirit. It reads:

“Manufactures of the several species of grain have a title to peculiar favor: not only because they are most of them immediately connected with the subsistence of the citizens, but because they enlarge the demand for the most precious products of the soil. Ardent spirits and malt liquors are, next to flour, the two principal manufactures of grain. The first has made a very extensive, and the last a considerable progress in the United States. In respect to both an exclusive possession of the home market ought to be secured to the domestic manufacturers, as fast as circumstances will admit. Nothing is more practicable, and nothing more desirable. The existing laws of the United States have done much towards attaining this valuable object. But some additions to the present duties on foreign malt liquors, and perhaps an abatement of those on home-made spirits, would more effectually secure it; and there does not occur any weighty objection to either. An augmentation of the duties on imported spirits would favor as well the distillation of spirits from molasses as that from grain. And to secure to the nation the benefit of a manufacture, even of foreign materials, is

always of great, though perhaps of secondary importance. A strong impression prevails in the minds of those concerned in distilleries (including, too, the most candid and enlightened), that greater differences in the rates of duty on foreign and domestic spirits are necessary, completely to secure the successful manufacture of the latter; and there are facts which entitle this impression to attention.

"It is known, that the price of molasses for some years past has been rising in the West India markets, owing partly to a competition which did not formerly exist, and partly to an extension of demand in this country; and it is evident that the late disturbances in those islands, from which we draw our principal supply, must so far interfere with the production of the article as to occasion a material enhancement of the price. The destruction and devastation attendant on the insurrection in Hispaniola, in particular, must not only contribute very much to that effect, but may be expected to give it some duration. These circumstances, and the duty of three cents per gallon on molasses, may render it difficult for the distillers of that material to maintain, with adequate profit, a competition with the rum brought from the West Indies, the quality of which is so considerably superior. The consumption of Geneva, or gin, in this country is extensive. It is not long since distilleries of it have grown up among us to any importance. They are now becoming of consequence; but being still in their infancy they require protection. It is represented that the price of some of the materials is greater here than in Holland, from which place large quantities are brought—the price of labor considerably greater—the capitals engaged in the business there much larger than in those which are employed here—the rate of profits, at which the undertakers can afford to carry it on, much less—the prejudices in favor of imported gin, strong. These circumstances are alleged to outweigh the charges, which attend the bringing

of the article from Europe to the United States and the present difference of duty, so as to obstruct the prosecution of the manufacture with due advantage. Experiment could alone decide with certainty the justness of the suggestions which are made; but in relation to branches of manufacture so important, it would seem inexpedient to hazard an unfavorable issue and better to err on the side of too great, than of too small a difference in the particular in question.

"It is therefore submitted, that an addition of two cents per gallon to the duty on imported spirits of the first-class of proof, with a proportionable increase on those of higher proof, and that a deduction of one cent per gallon be made from the duty on spirits distilled within the United States, beginning with the first-class of proof and a proportionable deduction from the duty on those of higher proof. It is ascertained, that by far the greater part of the malt liquors consumed in the United States are products of domestic breweries. It is desirable, and, in all likelihood, attainable, that the whole consumption should be supplied by ourselves. The malt liquors made at home, though inferior to the best, are equal to a great part of those which have been usually imported. The progress already made is an earnest of what may be accomplished. The growing competition is an assurance of improvement. This will be accelerated by measures tending to invite a greater capital into this channel of employment.

"To render encouragement of domestic breweries decisive, it may be advisable to substitute for the present rates of duty eight cents per gallon generally, and it will deserve to be considered as a guard against evasions, whether there ought not to be a prohibition of their importation, except in casks of considerable capacity. It is to be hoped that such a duty would banish from the market foreign malt liquors of inferior quality; and that the best kind only would continue to be

imported, till it should be supplanted by the efforts of equal skill and care at home.

"Till that period, the importation so qualified, would be a useful stimulus to improvement; and in the meantime the payment of the increased price, for the enjoyment of a luxury, in order to the encouragement of a most useful branch of domestic industry, could not reasonably be deemed a hardship.

"If anything in addition is judged eligible, the most proper would appear to be a direct bounty on window glass and black bottles. The first recommends itself as an object of general convenience; the last adds to that character the circumstance of being an important item in breweries. A complaint is made of great deficiency in this respect." *

The war carried on against hostile tribes of aborigines on the then western frontiers of the Union, helped to realize, sooner perhaps than would otherwise have been the case, the intentions of Hamilton as to the protection of distilled, and the encouragement of malt liquors. The defeat of St. Clair by the hostile Indians and the insufficiency of martial means for the protection of the western frontiers necessitated the augmentation of the military establishment of the Union. A bill was accordingly introduced into Congress (January 21, 1792), and passed, embodying the main features of a report by

* The lack of black quart bottles was at that time deemed an impediment to the brewing industry, and it was for this reason that this article was exempt from the ten per cent. duty imposed, by previous acts, upon glass ware. Interesting in this connection is the fact, that on June 2, 1790, a Congressional committee reported favorably on the petition of John F. Amelung, who, having established a large glass manufactory in Frederick County, Md., sustained great losses by fire, and hence asked Congress for a loan of money in order to enable him to continue operation. The committee recommended, that a sum not exceeding \$8,000.00 be advanced by the Treasury, on the ground that an industry so important to the United States deserved help. (Am. State Papers, Finance, Vol. i, p. 62.)

the War Department, to the effect that the two enrolled regiments, as well as the artillery battalion be raised to their full complement—the strength of a regiment on war footing being nine hundred and sixty men—and that three new regiments, including a small mounted force, be organized; the President being further authorized to cause the enrolment of additional squadrons of cavalry, in case the exigencies of the service should require it. The amount of money requisite for this increase of the military forces was estimated at \$675,950; hence additional revenues had to be raised amounting to that figure, minus \$150,000, which latter sum Hamilton thought would represent the surplus of income for the preceding year. Pointing out three expedients for providing this sum, namely, disposing of the interests of the United States in the Bank of the United States, contracting a new loan, and imposing additional taxes, Hamilton declared himself in favor of the last named resort, recommending an increase of the specific duties on imported wines, distilled spirits, malt liquors and ten other articles, and also of certain *ad valorem* duties. The increase of import duties on distilled spirits and malt liquors recommended in each of the two documents just mentioned, was again urged in Hamilton's reports respecting the difficulties in the execution of the act laying duties on spirits distilled within the United States.

Reviewing the objections which had arisen in various quarters against this law, and which were stated in a number of memorials and petitions, the Secretary states: "These objections have reference to a supposed tendency of the act, first, to contravene the principles of liberty; secondly, to injure morals; thirdly, to oppress by excessive penalties; fourthly, to injure industry and interfere with the business of distilling."

As to the first objection Hamilton took the ground that there can surely be nothing in the nature of an *internal* duty on a *consumable* commodity, more incompatible with liberty

than in that of an external duty on a like commodity. A doctrine which asserts that all excises are inconsistent with the genius of a free government, would tend to deprive the Government of what is, in most countries, a principal source of revenue, and, by narrowing the distribution of taxes, would throw an undue proportion of the public burden on the merchant and on the landholder.

Tacitly admitting that the prejudices against excises had a rational foundation in the fact that the manner of collecting such taxes had generally been productive of a tendency to interfere with the rights of the tax-payers, he states that in the case of the law under consideration, the mere name of the measure misled the people, while prejudices excluded a due attention to the fact, that the act was *free* from the features which have served, in other cases, to render laws on the same subject exceptionable. "The very things which have been studiously avoided in the formation of the law are charged upon it." The complaint that a summary and discretionary jurisdiction vested in excise officers, tended to abridge the right of trial by jury, is dismissed by Hamilton as unfounded, there being nothing in the act even to give color to a charge of the kind against it. In answer to the charge that excise officers are empowered to search and inspect indiscriminately all the houses of persons engaged in the business of distilling, he refers to that section of the law which prescribes that all houses and buildings used for the purposes in question must be previously entered and marked, and then says: "An officer, under the act in question, can inspect or search no house or building, or even an apartment of any house or building, which has not been previously entered and marked by the possessor as a place used for distilling or keeping spirits. And even the power, so qualified, is only applicable to distilleries from foreign materials, and in cities, towns and villages from domestic material; that is, only in cases in

which the law contemplates that the business is carried on upon such a scale as effectually to separate the distillery from the dwelling of the distiller. The distilleries scattered over the country, which form much the greater part of the whole, are in no degree subject to discretionary inspection and search. The true principle of the objection which may be raised to a general discretionary power of inspection and search is, that the dwelling of a citizen ought to be free from vexatious inquisition and intrusion. The principle cannot apply to a case in which it is put in his own power to separate the place of his *business* from the place of his *habitation*; and, by designating the former by visible public marks, to avoid all intermeddling with the latter. Such marks are represented (by the opponents) as a dishonorable badge; and thus a regulation, designed as much to conform with the feelings of the citizen, as for the security of the revenue, is converted into a matter of objection. There can be nothing more harmless or less inconvenient than such a regulation. The thing itself is frequently done by persons of various callings, for the information of customers; and why it should become a hardship or grievance, when required for a public purpose can, with difficulty, be imagined. The supposed tendency of the act to corrupt morals," Hamilton continues, "relates to the oaths, which are, in a variety of cases, required, and which are liable to the objection, that they give occasion to perjury. The requiring of oaths is not peculiar to the act in question; oaths are common appendages of revenue laws, and are among the usual guards of these laws, as they are of public and private rights in courts of justice. They constantly occur in jury trials, to which the citizens of the United States are so much and so justly attached. The same objection, in different degrees, lies against them in both cases, yet it is not perceivable how they can be dispensed with in either. As to the charge that the penalties of the act are severe and oppressive, it is made in such general terms, and so

absolutely without the specification of any single particular that it is difficult to imagine where it points. The penalties the law inflicts are in their nature the same with those which are common in revenue laws, and, in their degree, comparatively moderate. There appears to be but one provision in the law, which admits of a question whether the penalty prescribed may not partake of severity. It is that which inflicts the pains of perjury on any person who shall be convicted of wilfully taking a false oath in any of the cases in which oaths are required by the act. Precedents in relation to this particular vary. In many of them, the penalties are less severe than for perjury in courts of justice, in others they are the same. The latter are, generally, of the latest date, and seem to have been the result of experience. And the practice is certainly founded on strong reasons. 1st. The additional security which it gives to the revenue cannot be doubted. Many who would risk pecuniary forfeitures and penalties would not encounter the more disgraceful punishment annexed to perjury. 2d. There seems to be no solid distinction between one false oath in violation of law and right, and another false oath in violation of law and right. A distinction in the punishment of different species of false swearing is calculated to beget false opinions concerning the sanctity of an oath; and by countenancing an impression that a violation of it is less heinous in the cases in which it is less punished, it tends to impair in the mind that scrupulous veneration for the obligations of an oath which ought always to prevail. The supposed tendency of the act to injure industry, and to interfere with the business of distilling, has relation to the effect of the duty upon the extent of the manufacture; when a manufacture is in its infancy it is impolitic to tax it, because the tax would be both unproductive, and would add to the difficulties which naturally impede the first attempts to establish a new manufacture, so as to endanger its success. But when a manufacture (as in the case of distilled

spirits in the United States) is arrived at maturity, it is as fit an article of taxation as any other. To the manufacture itself the duty is no injury if an equal duty be laid on the rival foreign article, and when a greater duty is laid upon the latter than upon the former, as in the present instance, the difference is a bounty on the domestic article, and operates as an encouragement of the manufacture. * * * However true the allegation that it is, and ought to be, the prevailing policy of nations to cherish their own manufactures, it is equally true that nations, in general, lay duties for the purpose of revenue on their own manufactures; and it is obvious, to a demonstration, that it may be done without injury to them. The most successful nations in manufactures have drawn the largest revenue from the most useful of them. It merits particular attention, that ardent spirits are an article which has been generally deemed, and made use of, as one of the fittest objects of revenue, and to an extent, in other countries, which bears no comparison with what has been done in the United States."

Reviewing, in the thorough and exhaustive manner characteristic of all his public documents, a series of other less important objections to the act, Hamilton concludes his report * by submitting such alterations as were thought to remove some of the causes of discontent on account of the law, and to render the collection of the taxes more secure. Among his propositions he repeats the one made in his report on manufactures relative to an increase of the rate of import duties on distilled spirits. He further proposed that in localities where a want of money might prevent the payment of the tax, the Government should accept the product itself in lieu of currency; that the distinction respecting distilleries from domestic material

* It is in this report that Hamilton estimates the annual per capita consumption of distilled spirits, in the United States, at eleven quarts. The consumption in the year 1880 did not amount to four quarts.

in cities, towns and villages be so altered as to confine it to one or more stills worked at the same distillery, the capacity or capacities of which together do not fall short of four hundred gallons; that at least one office of inspection shall be established in each county, and as many more as the supervisor may judge necessary for the accommodation of the inhabitants. That in order to prevent evasions of the law, the possessors or proprietors of stills be held jointly and severally liable, and the duty be made a specific lien on the still; also that the owner of the land upon which stills are worked should be made answerable for the duty, except where the distiller is a *bona fide* tenant of the land for a term of not less than one year; and that the exemption specified in the 36th section of the law be abolished. He also recommended a number of changes in respect to drawbacks, to the marking of casks and other vessels used in the manufacture of distilled spirits; to the manner and time of paying taxes, and to the character, duties and compensation of revenue officers.

These suggestions, together with the recommendations contained in the two other reports, resulted in the enactment of two laws. The one, an act for raising a further sum of money for the protection of the frontiers (approved May 2, 1792,) imposed the following duties on objects pertaining to the liquor traffic:

Madeira wine of the quality of London particular, per gallon, fifty-six cent; Madeira of the quality London market, per gallon, forty cents; other Madeira wines, per gallon, forty cents; Sherry, per gallon, thirty-three cents; Saint Lucar, per gallon, thirty cents; Lisbon, per gallon, twenty-five cents; Oporto, per gallon, twenty-five cents; Teneriffe and Fayall, per gallon, twenty cents. All other wines, forty per cent. *ad valorem*.

Spirits, distilled wholly or chiefly from molasses, or other foreign materials:

Of the first-class of proof, per gallon, twenty-eight cents.					
"	second	"	"	twenty-nine	"
"	third	"	"	thirty-one	"
"	fourth	"	"	thirty-four	"
"	fifth	"	"	forty	"
"	sixth	"	"	fifty	"

All other distilled spirits :

Of second-class of proof and under, per gallon, twenty-five cents.

" third	"	"	"	twenty-eight	"
" fourth	"	"	"	thirty-two	"
" fifth	"	"	"	thirty-eight	"
" sixth	"	"	"	forty-six	"

Beer, Ale and Porter, per gallon, eight cents.

(Black quart bottles again exempt from the duty on glass ware.)

The other law (approved May 8, 1791), concerning the internal duties on distilled spirits, is sufficiently important to warrant its partial reproduction. It reads :

SECTION 1. Be it enacted, &c., That from and after the last of June next, the present duties upon spirits distilled within the United States, and on stills shall cease, and that in lieu thereof, upon all spirits which after the said day shall be distilled wholly or in part from molasses, sugar or other foreign materials, there shall be paid the duties following, that is to say :

For every gallon of those spirits of the first-class of proof, ten cents.

"	"	"	"	second	"	eleven	"
"	"	"	"	third	"	twelve	"
"	"	"	"	fourth	"	fourteen	"
"	"	"	"	fifth	"	eighteen	"
"	"	"	"	sixth	"	twenty-five	"

And upon all spirit which after the said day shall be distilled within the United States from materials of the growth or produce of the United States, in any city, town or village, at any distillery at which there shall be one or more stills which, singly or together, shall be of the capacity of four hundred gallons or upwards, there shall be paid the duties following :

For every gallon of those spirits of the first-class of proof, seven cents.

"	"	"	"	second	"	eight	"
"	"	"	"	third	"	nine	"
"	"	"	"	fourth	"	eleven	"
"	"	"	"	fifth	"	thirteen	"
"	"	"	"	sixth	"	eighteen	"

And upon stills which after the said day shall be employed in distilling spirits from materials of the growth or produce of the United States, at any other place than a city, town or village, or at any distillery in a city, town or village, at which there shall be one or more stills, which, singly or together shall be of less capacity than four hundred gallons, there shall be paid the yearly duty of fifty-four cents for every gallon, English wine measure, of the capacity or contents of each and every such still, including the head

thereof : Provided, that it shall be at the option of the proprietor or possessor of any such still, instead of the said yearly duty, either to pay seven cents for every gallon of spirits by him or her distilled, or to pay at the rate of ten cents per gallon of the capacity for each and every month of the employment of such still, and in case the said proprietor shall elect to pay either the said rate of seven cents, or the said monthly rate of ten cents, according to the capacity of his still, he at the time of making entry of his still or stills, shall by writing under his hand, left at the office of inspection where such entry shall be made, notify the said election, and if the same shall be to pay the said monthly rate of ten cents, shall demand a license for the term of time, specifying the day of commencing and the day of ending, during which he shall intend to work his still or stills, which license shall without delay or expense to the said proprietor be granted. And in case of an election to pay the said monthly rate of ten cents, it shall not be lawful for any person by whom the same shall have been made, to work his still or stills at any time within the year from the date of his entry thereof, other than that for which a license shall have been granted unless he shall have previously obtained another license for such further time, which upon like application shall be granted in like manner, and if such person shall work his still or stills, contrary to direction or provision aforesaid he shall forfeit and pay for every such offence two hundred dollars.

SECTION 2. That there be in each county comprehended within any district, at least one office of inspection at which every person having or keeping a still or stills within such county shall, between the last day of May and the first day of July in each year, make entry of such still or stills ; and at which every person, who being a resident within the county shall procure a still or stills, or who removing within a county, shall bring therein a still or stills, shall, within thirty days after such procuring or removal, and before he or she shall begin to use said stills, make entry thereof. And every entry, besides describing each still and capacity thereof, shall specify the place where, and the person in whose possession it is, and the purpose for which it is intended, as whether for sale or use in distilling ; and in the case of removal, shall specify the place from which every such still shall have been brought.

SECTION 3. That every proprietor or possessor of a still shall be jointly and severally liable for the duty thereupon ; and that every owner of land, upon which any still shall be worked, shall be liable for the duty, unless the same shall be worked by a lawful and bona fide tenant of the land of an estate, not less than for one year, or unless such owner can make it appear, that the possessor of, or person by whom such still shall have been worked, was during the whole time of working the same, a trespasser or intruder on his land.

SECTION 4. That every officer of inspection within whose survey any distillery of Geneva or sweet cordial, subject to the payment of duty by the gallon of spirits distilled thereon may be, shall forbear to visit or inspect, for a space not exceeding two hours in each day, such part of the said distillery as he may be required by the proprietor or manager of such distillery to forbear to visit and inspect, for which purpose it shall be necessary for the said proprietor to give notice in writing to the said officer, describing therein particularly the part of such distillery, which it shall be his desire that the said officer may forbear to visit, &c., ***

SECTION 5. That it shall be in the discretion of the Secretary of the Treasury to regulate as well the marks, to be set upon the casks, vessels and packages containing distilled spirits, as the forms of the certificates which are to accompany the same, and that when any cask or vessel in which distilled spirits have been contained, shall have been emptied of its contents, it shall be lawful for the marks thereupon to be effaced by, or in the presence of an officer of inspection, and if the said cask or vessel shall afterwards be used for putting therein other spirits, the same may be marked anew.

SECTION 6. That instead of a notice of twenty-four hours heretofore required to be given of the intent to export distilled spirits in order to obtain the benefit of the drawback of the duties thereupon, six hours shall be sufficient.

SECTION 7. That there be an abatement for leakage at the rate of two per cent. in every case in which the duty shall be payable by the gallon of the spirits distilled, to be allowed at the distillery where such spirits shall be made.

SECTION 8. That the officer of inspection within whose survey any still shall be, the duty whereupon is payable according to the capacity of the still, shall identify by progressive numbers and other proper marks, every such still within his survey, and the duty thereupon shall operate as a specific lien upon the said still.

SECTION 9. That every distiller of and dealer in spirits, who may have in his or her possession, distilled spirits not marked or certified, pursuant to the act, intituled "An Act repealing after the last day of June next, the duties heretofore laid upon distilled spirits imported from abroad, and laying others in their stead, and also upon spirits distilled within the United States and for appropriating the same," shall, prior to the last day of September next, report the spirits in his or her possession in writing, at some office of inspection, to the end that such spirits may be marked and certified as old stock. And that from and after the said last day of September next,

casks and vessels of the capacity of twenty gallons and upwards, containing distilled spirits, which shall be found in the possession of any distiller or dealer in spirits, except at a distillery where the same were made, or in transit from one place to another, without being marked according to law, or without having a certificate from some proper officer, shall be liable to seizure and forfeiture, and that it shall be the duty of the several officers of inspection, upon request of any dealer or distiller, to take measures for the marking of casks, vessels and packages containing distilled spirits, and to furnish such dealer or distiller, free from expense, with certificates to accompany the same. Provided, That it shall not be incumbent upon any such officer to mark or certify any cask, vessel or package which ought to have been before marked or certified according to any law of the United States.

SECTION 10. That from and after the last day of April, one thousand seven hundred and ninety-three, no distilled spirits except arrack and sweet cordials, shall be brought into the United States from any foreign port or place, except in casks or vessels of the capacity of ninety gallons and upwards.

SECTION 11. That no drawback of the duty on distilled spirits which shall be exported after the last day of June next, shall be allowed upon any quantity less than one hundred gallons.

SECTION 12. That after the last day of June next, no distilled spirits shall be brought into the United States, from any foreign part or place, in any cask or vessel, which shall have been marked pursuant to any law of the United States concerning distilled spirits, on pain of forfeiture of the spirits so brought, and of the ship or vessel in which they shall be brought.

SECTION 13. That if the owner or possessor of any still or stills shall neglect to make entry thereof, within the time and in the manner prescribed by the second section of this Act, such owner or possessor shall forfeit and pay the sum of two hundred and fifty dollars : and if any distilled spirits, except arrack and sweet cordials, shall, after the last day of April next, be brought into the United States in casks or vessels of less capacity than ninety gallons, all such spirits, and the casks and vessels containing the same, shall be subject to seizure and forfeiture, and every such penalty or forfeiture shall be one half to the use of the person who shall first discover and make known the matter or thing whereby the same shall have been incurred.

It appears somewhat difficult to determine how far Hamilton's proposition to protect the domestic manufacture of distilled spirits would have affected legislation, in the absence of

that combination of circumstances which necessitated an increase of revenue and rendered expedient the reduction of internal duties upon stills and ardent liquors. The increase of the import duties, effected simultaneously with a reduction of the internal taxes, certainly was intended as a protective measure; but it must remain a matter for conjecture, whether its adoption was not due quite as much to a desire to remove the discontent manifested in consequence of the excise law, as to considerations of a purely Protectionist character.

So far as malt liquors are concerned, the increased import duty cannot fail to be regarded as a means for the encouragement and protection of breweries, not only because there is abundant direct evidence of a very decided purpose to foster this manufacture; but also because the additional revenue to be derived from an increase of import duties, was not a matter worthy of serious consideration. Out of a total of \$523,000 to be raised by the *additional* taxes, malt liquors were estimated to yield but \$5,000, on the basis of the amount of importation of the previous year. Considering that the increased rate would diminish the quantity imported—as, indeed, it was intended to do—it becomes evident that protection and encouragement were the sole factors in the increase of duties in question.

CHAPTER IV.

THE WESTERN OR WHISKEY INSURRECTION: VIOLENT OPPOSITION TO THE ESTABLISHMENT OF EXCISE OFFICERS.—ATTACK ON CAPTAIN FAULKNER.—MEETING AT PITTSBURGH.—SEDITIONARY RESOLUTIONS ADOPTED.—PROCLAMATION BY THE PRESIDENT. REIGN OF TERROR INAUGURATED BY TOM THE TINKER.—CONTINUATION OF OUTRAGES UPON OFFICERS AND COMPLYING DISTILLERS.—ATTACK ON, AND DESTRUCTION OF, GENERAL NEVILLE'S HOUSE.—SEVEN THOUSAND ARMED RIOTERS MARCH INTO PITTSBURGH.—BRADFORD'S DESIGN TO REVOLUTIONIZE ADJOINING STATES AND FORM AN INDEPENDENT STATE.—MAILS ROBBED.—SECOND PROCLAMATION BY THE PRESIDENT. MILITIA CALLED OUT.—FRUITLESS EFFORTS OF A PEACE COMMISSION.—ADVANCE OF THE ARMY.—FLIGHT OF THE MORE VIOLENT LEADERS.—RESOLUTIONS OF SUBMISSION.—ARRIVAL OF THE ARMY AT PARKISON'S FERRY.—INSURGENTS DISPERSED AND ORDER RE-ESTABLISHED.

Under the new law embracing, as has been seen, the more important modifications suggested—some of them intended to obviate, others calculated pacifically to overcome opposition—the revenue officers succeeded little better than before in collecting the taxes from the recalcitrant distillers. A disposition to comply with the law was, indeed, sporadically manifested in the localities least infected, but the opposition soon found means to smother it. The menaces and outrages by which the Federal officers had before been prevented from the fulfillment of their duties, were now generally applied against every person in any manner favoring the law or its executors; and in a short time it became manifest, that to aid, even indirectly, in facilitating the collection of duties must

inevitably imperil the life and property of those doing so. For a time the opposition's principal object was to prevent the carrying out of the second section of the new law which provided that there shall be one office of inspection in each county; the old law having left it to the discretion of the supervisors (there being one for each State) to appoint these officers. This object was first sought to be attained by threatening the well-disposed citizens with destruction of life and property in case they should give aid or comfort to the excise officers. Too many horrible proofs of the determined character of the opposition had been given, to permit the people to ignore these threats, and, in consequence of the state of fear produced by them, it was for a time impossible to obtain suitable places for excise offices. Finally in August, 1792, an army officer, Captain William Faulkner, gave permission for the use of his house as an office of inspection in the county of Washington, but was compelled by the rioters to rescind his action. The occurrence is related in Hamilton's report to the President * in these words :

"Captain Faulkner, being in pursuit of some deserters from his troops, was encountered by a number of people in the same neighborhood where Johnson had been ill-treated the preceding year, who reproached him with letting his house for an excise office, drew a knife upon him, threatened to scalp, tar and feather him, and reduce his house and property to ashes, if he did not solemnly promise to prevent the further use of his house for an office. Faulkner, to save his life and property, made the promise, and, in consequence of the circumstance, wrote a letter to the inspector, dated the 20th of August, countermanding the permission for using his house."

In order to prevent others from letting their houses for

* Hamilton's Works. Cabinet Papers. Vol. IV., p. 585.

the purpose in question, Captain Faulkner was further compelled to publish a letter in the *Pittsburgh Gazette*, giving notice that the office of inspection should no longer be kept in his house.

A manifesto breathing the same spirit which dictated the outrage upon Faulkner, was made public at about the same time; it was prepared in a meeting of a number of persons from Washington, Fayette and Allegany counties, held at Pittsburgh (August, 1792). Among other things the resolutions set forth, that "a tax on spirituous liquors is unjust in itself and oppressive upon the poor; that internal taxes upon consumption must, in the end, destroy the liberties of every country in which they are introduced; and that the law would bring distress and ruin upon the western counties." The meeting—of which Gallatin acted as secretary—also made arrangements to enter into correspondence with opponents of the Government in the four refractory counties and other parts of the Union, the object of this being to effect concerted action. It was further declared that the persons attending the meeting will take all *legal* means to obstruct the operation of the excise law, that they "will, in future, consider those who hold offices for the collection of the duty as unworthy of their friendship, that they will have no intercourse nor dealings with them, will withdraw from them every assistance, withhold all the comforts of life which depend upon those duties, and will upon all occasions treat them with contempt, earnestly recommending to the people at large to treat them in the same manner."

This public declaration, taken in connection with the outrages already committed in accordance and harmony with previous manifestations of a like nature, certainly partook of an insurrectionary character, and would have justified strong measures for the vindication of the "majesty of the law." Findley styled these resolutions censurable on the ground of

discretion,* but deemed them entirely lawful; and in support of his opinion he refers to the fact that the Attorney-General of the United States, Edmund Randolph, failed to discover anything actionable in the testimony procured against the persons who had participated in the meeting. A most unfortunate reference, in the light of subsequent events which showed Randolph to have been in collusion with the leaders of the Insurrection as well as with the French cabal of Genet. Hamilton's view of the determination on the part of the opponents to obstruct the operations of the law is given in these words:

"The idea of pursuing *legal* measures to obstruct the operation of a law needs little comment. Legal measures may be pursued to procure the repeal of a law, but to obstruct its operation presents a contradiction in terms. The operation, or what is the same thing, the execution of a law cannot be obstructed after it has been constitutionally enacted, without illegality and crime."

On the 15th of September (1792) Washington issued a proclamation "admonishing and exhorting all persons whomsoever it might concern, to refrain from unlawful combinations and proceedings whatsoever, having for object or tending to obstruct the operation of the law, inasmuch as all lawful means would be applied for bringing to justice the infractors thereof and securing obedience thereto; and, moreover, charging all courts, magistrates and officers, according to the duties of their several offices, to exert the powers in them respectively vested by law for the purpose aforesaid, and also enjoining and requiring all persons loving the welfare of their

* History of the Insurrection, p. 44. It may not be amiss to place this version of the Insurrection in a true light, seeing that it is even at the present day treated with that confidence and deference which are due only to impartiality and fairness.

country, interested in the just authority of Government and preservation of public peace, to be aiding therein; likewise directing that offenders be prosecuted in accordance with law."

The efforts made under and by virtue of this proclamation, to break the spirit of resistance, by employing the judiciary machinery—to which end the supervisor of the revenue for the district of Pennsylvania, George Clymer, had been directed to proceed to the refractory surveys and to collect testimony, whereon to base indictments—proved abortive, partly in consequence of errors committed by the officer just named, and partly by reason of the decision of the Attorney-General of the United States, to the effect, as already stated, that the resolutions adopted at the last Pittsburgh meeting offered no ground for indictment. In the case of the Faulkner riot prosecution was attempted against two persons; but the latter had to be set free, owing to mistaken identity.

In this perplexing state of affairs, a recourse to force being feared by some officers of the Government as much as it was openly deprecated, but secretly accelerated by others,* the Treasury Department endeavored to conciliate the distillers by a measure which had been proposed by Hamilton, but was not embodied in the new law, namely: The purchase of spirits for the use of the army from those distillers of the western counties who had complied with the law. In addition to this, an attempt was made to intercept the markets for the surplus produce of the distilleries in the western counties, and prosecute violators of the law. Some seizures were made of spirits intended for market, occasional purchases were effected and prosecutions instituted against non-complying distilleries. This

* While officially shielding the rioters from the employment of force against them, Randolph seems to have secretly done all in his power to accelerate the course of those events, which could not but ultimately lead to what, as yet, he endeavored to avert by his decision.

leniency of the Government was, however, variously construed. While some took it at its real worth, and felt inclined to yield obedience to the law, others—and by far the majority of citizens—regarded it as a symptom of weakness of the Administration, and as an earnest of the ultimate repeal of the law. The willingness of some distillers to comply with the law only tended to exasperate the delinquents, who again began to practice their old methods of intimidation. In spite of a law passed in March, 1793, authorizing special sessions of the United States Circuit to be held at convenient places within the Judicial District, so as to afford protection to the well-disposed, by a speedy course of justice against rioters, outrages continued to occur quite frequently, only differing from those which preceded them in their increased cruelty and violence.

In April, 1793, the house of the revenue inspector of Fayette County was attacked at night by a party of regulators; but, fortunately, the officer was absent from home. The attack was, however, repeated on the 22d of November, and the inspector was then compelled, at the muzzle of a pistol, to surrender his commission and books, and to swear that he would publish his resignation in the newspapers, on pain of another attack and the total demolition of his property. The stills, barns and houses of complying distillers were burned; persons who dared to testify against rioters fared no better. Armed regulators patrolled through the four counties, suddenly appearing here, there and everywhere; terrorizing everybody, and compelling infractions of the law, where otherwise the fullest submission might have been accorded to the fair demands of the Government. "The threats of the rioters," says Findley, "contained in letters signed by Tom the Tinker, were directed to certain persons, with express orders to have them published, and the editor of the *Pittsburgh Gazette* did not think it prudent to refuse to admit them."

Tom the Tinker is said to have first been suggested as a *nom de guerre* by a rioter of the name of John Holcroft. Destroying the stills of law-abiding citizens was termed "mending"; *tinker* being a synonym of *mend*, the former word, as a substantive, ultimately became the appellation for the destroyers of stills.

Although the reign of terror maintained by Tom the Tinker exceeded anything experienced before its inauguration, there seemed to be, towards the close of 1793, and the beginning of 1794, a more general disposition to comply with the law. Many of those who had at first opposed excise duties shrank from the consequences of the outrages committed by the Tinker; and that feeling of insecurity which must inevitably attend an anarchical state of things, told very perceptibly on the material prosperity of the people. It was thought that a general compliance with the law could be effected if the fear of Tinkerdome were counteracted by a swift course of retributive justice. In order to attain this object, and at the same time still more effectually to remove one of the objections to the law, an act was passed on the fifth of June, 1794, conferring on the State courts jurisdiction concurrent with the courts of the United States. Among the many alleged grievances of the rioters the mode of prosecuting violators of the excise held a prominent place, and the substance of the act just mentioned was virtually a compliance with one of their demands.

Under this new law—the last of the many concessions made to a seditious spirit, under stress of circumstances pregnant with evil—the Government determined to enforce the entering of stills and the collection of taxes at all hazards, and it was now in a better condition to do so than ever before. All the artifices and stratagems employed by the opposition to render Washington's administration odious, had failed; the investigation into the conduct of the Treasury had resulted in a

brilliant vindication of Hamilton's course; the cabal of the French faction had received a severe blow by Genet's recall, and in the matter of foreign relations the Administration had achieved a victory.

Immediately after the adjournment of Congress, June 9, 1794, indictments were found and warrants issued against a number of non-complying distillers in Western Pennsylvania. The marshal, who was charged with the serving of these warrants, met with no resistance, until, having successfully served twenty-nine papers, he reached the house of a delinquent distiller named Miller, near Peter's creek. On his way he was accompanied by John Neville, revenue inspector of the district. Both officers were attacked by a party of armed men, fired upon and compelled to fly for their lives.* Neville returned to his house, in the vicinity of Pittsburgh. On the same day the "Mingo Creek Society," composed of a battalion of militia, rendezvoused, as Findley says, "in order to form a select corps of militia, as their quota of the 80,000 men required by Congress." It is not known whether the organization of this select corps was perfected for the laudable purpose stated; it is a fact, however, that the next morning (July 16th, 1794), led by John Holcroft, a party of about forty of those who had

* Findley states in his account: "A number of men were observed as if in pursuit of them and one gun was discharged; not however, with a design to do execution. It is well known that if the design had been to shoot one, or either of them, they could not have escaped." p. 77. On the very next page Findley blames Neville for having accompanied the marshal, in these words contradicting *in toto* the assertion, that the gun was fired without design to do execution: "The inspector knew that there were designs against him, and he ought not to have involved the marshal in the same risk with himself." The same author explains the animosity of the people against Neville, by stating that, as the latter had formerly opposed the State excise, and now accepted an excise office from the Federal Government, the people "looked on him as giving up his principles for a bribe;" the bribe being his salary as inspector, amounting to \$600.

attended the militia meeting, appeared with arms in their hands, at the house of General Neville, and prepared for an assault. The inspector, aware of the temper of his assailants of the evening before, had, in anticipation of an attack, barricaded his house and armed his servants. On the approach of the rioters, he opened a brisk fire, and drove back the attacking party, with a loss to the latter of five men wounded and one killed.* Conscious of the perilousness of his position, Neville applied for protection to two magistrates, and the commandants of the militia at Pittsburgh, and failing in this, he asked for, and obtained, a detachment of eleven regulars from the garrison of Fort Pitt, under the command of Major Fitzpatrick, his kinsman. In the meantime the rioters made preparations for a renewal of the attack and the gratification of the spirit of vengeance, which had been aroused by the casualties of the previous attack, and stimulated by the incendiary eloquence of John Holcroft. The next morning the Mingo Creek battalion, fully armed and equipped in militia style, assembled at Couche's Fort and after holding a council of war, appointed a committee of three, for the conduct of the expedition. This committee placed McFarlane, formerly a lieutenant in the Continental army, in command of the troops, numbering five hundred men. On seeing this body of desperate men approaching his house, Neville, convinced that he could not successfully defend his property against such odds, concluded to escape, leaving Major Fitzpatrick to make a capitulation in favor of the property, if practicable, if not, to defend it as long as possible.

Before beginning the assault, McFarlane, in accordance

* Findley describes this episode as follows: The party, on being asked what their business was, and answering in a suspicious manner, were, *without further provocation*, fired on from the house, and after returning the fire, they were fired on by the negroes from the adjoining buildings. Being thus *unexpectedly* attacked in flank, they retired."

with instructions from the committee of three, opened a parley with the beleaguered regulars, demanding the surrender of Neville; being informed of the inspector's escape, he next proposed that six of his men be admitted to the house for the purpose of a search, the object of which was said to be Neville's commission and the documents relating to the prosecution of delinquent distillers. Upon Fitzpatrick's refusal to accede to this demand, McFarlane sent notice for the women of Neville's household to leave the premises. This having been done, the insurgents at once began firing. The very unequal combat lasted but a short time; McFarlane having been killed, the mob became infuriated, and setting fire to the out-houses, compelled the intrepid little garrison to surrender. The eleven men, three of whom had been wounded during the brief struggle, were dismissed. At this juncture the marshal and Neville's son came upon the scene, and were immediately seized by the mob; the former would undoubtedly have been killed, had he not promised to relinquish the task he had undertaken and to refrain from serving processes west of the mountains. The inspector's residence was entirely consumed by fire. General Neville and the marshal, who had escaped to Pittsburgh, found little safety there; on the following day the rioters demanded of the former that he resign his office, of the latter, that he surrender all warrants in his possession. Unwilling to comply with these requirements of their personal safety, and aware of the consequences of a refusal, the two officers descended the Ohio river as far as Marietta, and thence made their way to Philadelphia, the seat of Government.

Flushed with victory, the leaders of the riot at once took steps for the raising of a still greater military force. A public meeting, appointed, it is said, at the funeral of McFarlane, was held at Mingo Creek, July 23d; Bradford, prosecuting attorney for the District, the most violent of the excise rioters, delivered a brutal speech in which he urged continued resist-

ance, and the arming of all able bodied men of the western counties, with the design of marching upon Philadelphia. Brackenridge, a prominent lawyer of Pittsburg, who has left us a history of the insurrection, opposed Bradford's wild scheme; he succeeded in shaking the bitter determination of the Bradford faction, and the result was that no definite action was taken, save the calling of a convention of delegates from the townships of the western counties of Pennsylvania and the neighboring counties of Virginia, to meet on the 14th day of August, 1794, at Parkison's Ferry, on the Monongahela. The object of the convention was to have been "a consideration of the situation," and it may be, as the apologists of the insurrection subsequently claimed, that the submission of the revolting counties was contemplated by many of the rioters. If such was the intention, Bradford took unusual precaution to frustrate it.

By an arrogation of power he assumed the right vested in the *directoire*, i. e., the committee of three, appointed on the 17th of July, and undertook to guide the movement. His first act was the robbing of the western mail on the post-road between Greensburgh and Pittsburg. Pretending to have discovered secret plans detrimental to the interest of the good people of western Pennsylvania, this self-created dictator sent to militia officers the following circular, dated Cannonsburgh, and signed by himself, A. Fulton, J. Cannon, B. Parkison, T. Speers, I. Lowry and J. Marshall: "Having had suspicions that the Pittsburg post would carry with him the sentiments of some of the people in the country, respecting our present alarming situation; and the letters by the post being now in our possession, by which certain secrets are discovered hostile to our interest, it is therefore now come to that crisis, that every citizen must express his sentiments not by his words but his actions. You are then called on, as a citizen of the western country, to render your personal service, with as many volun-

teers as you can raise, to rendezvous at your usual place of meeting on Wednesday next; and from thence you will march to the usual place of rendezvous at Braddock's Field, on the Monongahela, on the first of August next, to be there at two o'clock in the afternoon, with arms and accoutrements in good order. Here, sir, an expedition is proposed, in which you will have an opportunity of displaying your military talents, and of rendering service to your country."

On the day appointed seven thousand armed men gathered on Braddock's Field; among the multitude were Ross, United States Senator, Col. Cook, one of the judges of Fayette county, and Albert Gallatin, who in 1793 was declared ineligible to a seat in the United States Senate, to which he had been elected by the Pennsylvania Legislature.* Bradford created himself major-general, and in this capacity reviewed the troops. The army, resolving itself into a deliberative body, of which Cook was chairman and Gallatin secretary, appointed a committee for the conduct of the enterprise, and this *Directory* ordered that, in addition to a number of men already banished because their letters, which had been opened by Bradford, contained expressions of loyal sentiments, two more citizens of Pittsburgh should be expelled. Bradford, idolized by his supporters and feared by all, marched his army to Pittsburgh, where a seemingly hearty welcome was given to the rioters. After an improvised repast a great number of men went to their homes, but those bent upon mischief remained in town, under Bradford's command, and during the night burned a barn belonging to Major Fitzpatrick.

That the expulsion of two citizens could not have been the real object of the march upon Pittsburg is obvious enough;

* By a vote of fourteen to twelve, the Senate, sitting for the first time with open doors, decided that Gallatin, a Swiss by birth, had not been a citizen of the United States sufficiently long to entitle him to a seat.

in reality, Bradford had hoped that he could induce the militia officers to seize Fort Pitt by force of arms, and thus obtain possession of the arms and munition stored in its arsenal. His ulterior scheme seems to have been a secession of the western counties. His immediate plan was frustrated, however, by the good sense of a majority of the militia officers; but he still retained power over a large body of rioters, and continued to perpetrate horrible outrages; driving from the counties not only all Federal officers, save the military, but also all well-disposed citizens.

It was a critical moment in Washington's administration, when—seeing the authority of the Government successfully defied in one part of the country, and a spirit of resistance, rekindled by the French faction, spreading throughout the land—he felt compelled to resort to an exercise of the powers vested in him by the Militia Law.* Mifflin, governor of Pennsylvania, having shown a disinclination to call out the militia of his State, on the ground that such a course might increase the opposition to such an extent as to necessitate the employment of troops from the adjoining States—an event which he feared would result in a general war—Washington resolved to make use of his power. In accordance with the law providing for the calling out of the militia, he submitted a statement of the disturbances to a judge of the Supreme Court, who gave a certificate to the effect, that the execution of the laws of the United States was obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings. The question of issuing a proclamation was now discussed by the cabinet, all the members, with the exception of Randolph,

* The perilousness of the situation was greater, in the eyes of the President and his cabinet, than would appear from the above narrative. In Hildreth's history (vol. iv., p. 503) we read: With the arrival of news of the great triumphs achieved by the French arms, and of the subsidence of internal revolt under the terrible discipline of the Reign of Terror, the

coinciding with the President in the conviction that "the Government could no longer remain a passive spectator of the contempt with which the laws were treated." Randolph, who had succeeded Jefferson in the office of Secretary of State, opposed the calling out of the militia for various reasons. He doubted the legality of the measure as well as its expediency; among his reasons was the danger, if the insurgents accepted the aid of the British, that the western army would be destroyed and that a severance of the Union and a British war would be the consequence. The subsequent disclosure of Randolph's intercourse with the French ambassador, Fauchet, and the publication of the dispatches the latter sent to his government, prove that the fear of a severance of the Union was not without foundation. (See Appendix.) In a letter of Brackenridge addressed under date of August 8, 1794, to Tench Coxe, and by him submitted to the Cabinet, it was stated that in case of a military force being sent against the insurgents, the first measure of the latter would be the organization

Democratic societies, recovering from the temporary check growing out of the conduct of Genet and the disasters of the French Republic, had become more vigorous and violent than ever, and very unsparing in the attacks upon the policy of the federal administration. The Charleston society, on their own application had been recognized by the Jacobin Club of Paris as an affiliated branch. The Democratic Society of Washington county, one of those involved in the present disturbance (excise riots), had passed strong resolutions, copied from those of Kentucky, on the subject of the navigation of the Mississippi. The French agents were still active in Kentucky, and a secret understanding was suspected between all these parties. The Democratic society of Philadelphia hastened indeed to pass resolutions, in which, after execrating the excise law, they declared, however, their disapproval of violent resistance. But no great faith was placed in their sincerity, or in the concurrence of the affiliated branches. In a contemporary letter to Governor Lee, of Virginia, Washington speaks of the leaders of these societies as artful and designing men, whose great object was, under a display of popular and fascinating guises, to destroy all confidence in the administration, and likely, if not counteracted and their character exposed, to shake the government to its foundation.

of a new government comprehending the three Virginia counties, and those of Pennsylvania to the westward. "Should an attempt be made," Brackenridge continued, "to suppress these people, I am afraid the question will not be, whether you will march to Pittsburgh, but *whether they will march to Philadelphia*, accumulating in their course, and swelling over the banks of the Susquehanna like a torrent—irresistible and devouring in its progress." As among the measures contemplated by the insurgents, Brackenridge mentions *an application for aid to the British*.

Randolph clearly misunderstood Washington's character if he thought that these and similar considerations could change the course of action proposed. Indeed it was to be expected that these very reasons would confirm him in his purpose of using the radical measures which a crisis of such a character imperatively demands. The President and his cabinet persevered in their purpose, and accordingly on the 7th day of August, the following proclamation was issued :

WHEREAS, combinations to defeat the execution of the laws laying duties upon spirits distilled within the United States, and upon stills, have, from the time of the commencement of these laws, existed in some of the western Counties of Pennsylvania: and whereas, the said combinations, proceeding in a manner subversive equally of the just authority of government and of the rights of individuals, have hitherto effected their dangerous and criminal purpose, by the influence of certain irregular meetings whose proceedings have tended to encourage and uphold the spirit of opposition by mis-representations of the law, calculated to render them odious, by endeavors to deter those who might be so disposed from accepting office under them, through fear of public resentment, and of injury of person and property; and to compel those who had accepted such offices, by actual violence to surrender or forbear the execution of them: by circulating vindictive menaces against all those who should otherwise directly or indirectly aid in the execution of the said laws, or who, yielding to the dictates of conscience and to a sense of obligation, should themselves comply therewith; by actually injuring and destroying the property of persons who were understood to have complied; by inflicting cruel and humiliating punishment upon private citizens, for no other cause than that of appear-

ing to be friends of the laws ; by intercepting the public officers on the highways, abusing, assaulting, and otherwise ill-treating them; by going to their houses in the night, gaining admittance by force, taking away their papers, and committing other outrages : employing for these unwarrantable purposes the agency of armed banditti, disguised in such manners as for the most part to escape discovery ; and whereas, the endeavors of the legislature to obviate objections to said laws, by lowering the duties, and by other alterations conducive to the convenience of those whom they immediately affect (though they have given satisfaction in other quarters), and the endeavors of the executive officers to conciliate a compliance with the laws, by explanations, forbearance, and even by particular accommodations, founded on the suggestions of local considerations, have been disappointed of their effect by the machinations of persons, whose industry to excite resistance has increased with every appearance of a disposition among the people to relax their opposition and to acquiesce in the laws, inasmuch that many persons in said western part of Pennsylvania have at length been hardy enough to perpetrate acts which I am advised amount to treason, being overt acts of levying war against the United States, the said persons having on the 16th and 17th of July last, proceeded in arms (on the second day amounting to several hundred) to the house of John Neville, inspector of the revenue for the fourth survey of the district of Pennsylvania, having repeatedly attacked the said house, with the persons therein, wounding some of them ; having seized David Lenox, marshal of the district of Pennsylvania, who previous thereto had been fired upon while in the execution of his duty by a party of armed men, detaining him for some time prisoner, till, for the preservation of his life, and the obtaining of his liberty, he found it necessary to enter into stipulations to forbear the execution of certain official duties touching processes issuing out of a court of the United States ; and having finally obliged the said inspector of revenue and the said marshal, from considerations of personal safety, to fly from that part of the country, in order, by a circuitous route, to proceed to the seat of government ; avowing, as the motives of these outrageous proceedings, an intention to prevent by force of arms the execution of the said laws ; to withstand by open violence, the lawful authority of the government of the United States ; and to compel thereby an alteration in the measures of the legislature, and a repeal of the laws aforesaid. [Here the President quoted the act to provide for calling forth the militia.] And whereas it is in my judgment necessary, under the circumstances of the case, to take measures for calling forth the militia—in order to suppress the combinations aforesaid, and to cause the laws to be duly executed, I have accordingly determined to do so, feeling the deepest regret for the occasion, but withal the most solemn conviction that the essential interests of the Union demand

it, that the very existence of government and the fundamental principles of social order are materially involved in the issue, and that the patriotism and firmness of all good citizens are seriously called upon, as occasions may require, to aid in the effectual suppression of so fatal a spirit.

WHEREFORE, I, George Washington, President of the United States, do hereby command all persons, being insurgents as aforesaid, and all others whom it may concern, on or before the first day of September next, to disperse and retire peaceably to their respective abodes. And I do moreover warn all persons whatsoever against aiding, abetting or comforting the perpetrators of the aforesaid treasonable acts; and do require all officers and other citizens, according to their respective duties, and the laws of the land, to exert their utmost endeavors to prevent and suppress such dangerous proceedings.

As Governor Mifflin had officially expressed the opinion that the Pennsylvania militia alone would not be able to cope with the insurgents (Randolph opined that the four counties could easily muster fifteen thousand men) it was resolved to call out thirteen thousand men (afterwards raised to fifteen thousand); and a requisition was accordingly made upon Pennsylvania, Virginia, Maryland and New Jersey for their quota of this force. On the first day of September (1794) the troops were to be ready for marching orders.

Alarmed at the turn affairs had taken, Governor Mifflin, after a previous interview with the President, addressed to the latter a letter deprecating the measures contemplated and suggesting others in their stead. In reply to this, Washington directed Hamilton to write a letter expressing the President's regret at the possible necessity of an appeal to arms and his willingness to make one more attempt to avert that necessity, "To manifest his attention to the principle that a firm and energetic conduct does not preclude the exercise of a prudent and humane policy, he [the President] concluded upon the measure of sending Commissioners to the discontented counties, to make one more experiment of a conciliatory appeal to the reason, virtue and patriotism of their inhabitants, and has also signified to you how agreeable would be to him your

co-operation in the same expedient." Upon this, Mifflin issued two proclamations, one calling out the militia, and the other commanding the insurgents to disperse; he also appointed Chief Justice McKean and General Irving commissioners to act jointly, with the peace commission appointed by the President, which consisted of three Pennsylvanians, viz: Senator Ross, U. S. Attorney General Bradford, and Yates, one of the judges of the Supreme Court of Pennsylvania.

While these pacific measures were carried out and the preparations for the employment of force were being pushed by the government with energy, and soon responded to, with unlooked for enthusiasm, by the loyal population, the insurgents remained not idle. They made repeated expeditions into the adjacent counties of Virginia and Maryland, spreading discontent and kindling a martial spirit far and near. On the day appointed for the meeting at Parkison's Ferry [Aug. 14,] two hundred delegates met, representing the four disaffected Pennsylvania counties, and two counties of Virginia. The delegates assembled in a grove on an eminence commanding a view of the Monongahela river. In the morning an organization was effected by the election of Cook as chairman and Gallatin as secretary. Two resolutions were offered and discussed—one appointing a "Committee of Public Safety," to consist of sixty member, whose proposed duty was defined in these words: "to call forth the resources of the western country, to repel any attempts that might be made against the rights of the citizens, or of the body of the people;" the other declared against the taking of citizens from the vicinity for trial. At this juncture the arrival of the two commissions, and the object of their coming were announced, and it seems that this event changed the drift of affairs. Gallatin exerted what influence he possessed in order to avoid an open conflict; he argued in favor of more moderate language than that proposed, and endeavored, successfully, to have all utterances of a

revolutionary character stricken out of the resolutions, and a promise inserted to submit to municipal laws.* It was finally agreed to appoint a committee of sixty, with power to call another meeting, and a second committee of fifteen to meet and negotiate with the two commissions.

A meeting of the latter committee with the commissioners took place at Pittsburgh, on the 21st of August, when the commissioners, at the request of the insurgents' representatives, formulated an *ultimatum* to the effect that the committee on behalf of their constituents explicitly declare their determination to submit to the laws of the United States, and neither directly nor indirectly to oppose the execution of the excise law; that they recommend entire obedience to the law and a discontinuation of all violence; that they take measures to ascertain the sense of the people, and furnish on or before the 14th of September satisfactory assurance of a pacific disposition of the inhabitants of the disaffected counties. The commissioners on their part promised that in the event of a ready compliance with these stipulations a term of probation, extending to the 10th of July, 1795, would be granted, during which no prosecutions would be commenced; and in the case of entire obedience to the laws during this probationary term, a general pardon would be given. Willing to accept these terms, the committee to which belonged Gallatin, Marshal, Bradford, Brackenridge and Cook—all of whom, excepting Bradford, were disposed to adopt conciliatory means—requested time to consult the committee of

* J. C. Hamilton says: "Gallatin now felt that they were on the verge of an abyss. Resolves would not stand the test of resolution. The oppression of the poor by excises was no more thought of. 'Legal measures for obstructing the operation of the law,' it was feared would not stand the test of justice—sternly pointing to a prison and the gibbet." (Vol. vi., p. 94) Hildreth says: "There were many persons present whose object, like Gallatin's, it was to extricate the people from the disastrous consequences of a violent opposition to the law, which they themselves had done much to stimulate." History of the United States, vol. iv., p. 506.

sixty. But their ready acquiescence only irritated the Bradford wing, now impatient of delay and sanguine of the success of open resistance. A letter signed by Tom the Tinker and accusing the committee of having sold out the insurgents, was published in the Pittsburgh Gazette, and made a very deep impression on the insurgents. The result was that, when the Committee of Public Safety met at Red Stone Old Fort, to discuss the stipulations of the *ultimatum*, a party of armed rioters, displaying a menacing front, entered the town, and so intimidated those who were disposed to submit, that Gallatin, justly fearing the miscarriage of his good intentions, thought it wise to move an adjournment till the next day. In spite of Bradford's opposition, he succeeded in this as well as in his and his friends' efforts to induce the armed party to return to their homes.

When the Committee of Public Safety re-assembled on the next day, Bradford in opposing Gallatin's arguments in favor of submission, openly declared his conviction that the insurgents only wanted fire-arms to enable them to defeat the militia, and establish an independent state. His harangue filled the minds of the submissive with grave apprehensions as to the prevalence of such treasonable ideas, and a feeling of distrust naturally rendered the wary still more cautious.

A *viva voce* vote on the proposed terms seemed too hazardous, and a vote by ballot was accordingly determined upon. It resulted in a majority of eleven votes for submission, out of a total of fifty-seven.

Thus far the Committee of Safety proceeded, and no further; the principal part of the stipulations they had not the courage to comply with. They, however, appointed a sub-committee of nine, to test the sense of the people and obtain individual pledges of submission.

On the first of September this sub-committee, meeting the two commissions, asked for delay until the 10th of October—

a proposal which was peremptorily rejected, the original terms being earnestly insisted upon by the Commissioners. On the following day the conferees acceded to the proposition of taking the sense of the people and rendering a return of the votes on the 16th of September. While in a few localities the outcome of this arrangement gave promise of a subsidence of the revolutionary disposition, in others, and by far the majority of them, a direct expression of sentiments was either entirely avoided or assumed a most threatening character. In some cases a discussion of the proposed terms was forbidden under threat of burning the houses of the loyal dissenters; in others the declarations of submission were torn and trampled upon, and again in others resolutions of defiance took the place of the proposed vote. So violent was the spirit manifested by the obdurate rioters, that in some of the disaffected parts those who signified their submission felt constrained to form associations for common protection. To the latter the intervention of the militia seemed quite as requisite for their personal safety as for the vindication of the authority of government. Under such circumstances the Commissioners could not but conclude that their mission of peace had completely failed, and that force of arms must be resorted to. On their way home the two State Commissioners, Judges McKean and Yates, had further opportunities of testing the correctness of this conclusion. At Greensburg, in Westmoreland County, the house in which they lodged was attacked by a mob, who were only prevented from forcibly gaining access by a well-directed fusilade. At Carlisle, where the judges administered justice in the cases of a number of persons who, late in August, had made seditious attempts to frustrate the enrolment of the militia, they narrowly escaped capture by a mob of two hundred rioters. Arriving in town after the departure of the Commissioners, the insurgents burnt the judges in effigy. A riot in the neighborhood of Hagerstown was quickly suppressed by a detachment

of cavalry. Upon receiving the Commissioners' report, Washington, on the 24th day of September, issued his third proclamation, commanding submission to the law and admonishing the law-breakers of the consequences of their revolt. At the same time the preliminaries for an advance upon the rebel districts were perfected. The call for the militia had brought out a much larger body of soldiers than the requisitions demanded. The troops of Maryland and Virginia, led respectively by Morgan and Smith, rendezvoused at Cumberland; those of New Jersey and Pennsylvania, under command of the governors of their States [Howell and Mifflin], at Carlisle. Forming respectively the left and right wings of the army, the former marched across the mountains by Braddock's road, the latter by the northern or Pennsylvania road. The fact that a large part of the troops was composed of volunteers, served materially to change the aspect of things, since it proved that whatever the designs and desires of the secret societies may have been, they had not succeeded in bringing about the calamities predicted by Randolph and others.*

On the 30th of September, Washington, accompanied by Hamilton, proceeded to Carlisle, where he reviewed the troops and was received with unusual enthusiasm by the citizens, whom he addressed on the dangers of the situation. While there he was called upon by Findley and Reddick who, as the delegates of a convention of citizens held at Parkison's Ferry, on the 2d of October, submitted to him resolutions of submission, and endeavored to dissuade him from a continuance of military

* Mifflin's lukewarmness suddenly changed into an almost suspicious eagerness to aid the government, when the Legislature of his State, convened in special session, denounced the insurgents, and, to obviate difficulties said to have arisen in drafting the militia, authorized the enlistment of volunteers, at the same time authorizing the offer of a bounty, if needed. Upon this Mifflin made a tour of the most populous counties of the State to raise volunteers displaying a degree of zeal truly astounding in the light of his former attitude.

operations. This convention marks the beginning of the dissolution of the rebellious movement; it was called after Bradford and other equally violent leaders, as cowardly as they were treacherous and disloyal, had fled from the counties, and when the rapid approach of two powerful columns of loyal soldiers, the determined attitude of the Administration and the enthusiasm of a vast majority of the population, had destroyed the last hope of the insurgents. From Hamilton's version of Findley's interview with the President it would seem, that doubts were entertained as to whether the resolutions of submission represented the sentiments of the mass of insurgents; at all events, Washington, though he treated Findley and Reddick courteously, did not allow himself to be moved from his purpose. Findley, who like Gallatin had but a short time before been elected to Congress, essayed in various ways to impress the President with his popular influence and his ability to make good his promises, and failing in this, he went so far as to offer his services in capturing offenders. No wonder that his importunate conduct aroused suspicion. He was finally told that the advance of the troops would not be interrupted, unless more trustworthy evidences of submission were offered. He and Reddick thereupon returned to their homes, intending to procure the required evidences.

At a third meeting held at Parkison's Ferry, on the 24th of October, and of which Gallatin again acted as secretary, resolutions were passed fully in accord with, and in some points even exceeding, the terms proposed by the joint commission, before the movement of the troops. It was declared that "the civil authority was competent to enforce laws and to punish both past and present offences, as the people were determined to support every description of civil officers in the discharge of their duty; and that the offices of inspection might immediately be opened." Summoning all delinquents, who had not secured impunity by timely submission, to sur-

render for trial, the delegates to the meeting further pledged themselves "to unite in giving assistance to bring to justice such offenders as shall not surrender." When Findley and his brother delegates, Reddick, Douglass and Morgan, empowered to present these resolutions, reached Uniontown, in Fayette county, where a junction of the two wings of the army had been effected, Washington had already returned to Philadelphia, after having again reviewed the troops—the Virginia and Maryland militia at Cumberland, the Pennsylvania and New Jersey quota at Bedford. Governor Lee was now in chief command of the troops, and Hamilton represented the President on the field of action. Both received the delegates of the Parkison's Ferry convention courteously, and Lee issued a friendly address to the people, in reply to pacific assurances, urging the well-disposed to persevere in their laudable course. However gratifying these symptoms of a re-awakened sense of duty may have been, they could not bring the advancing columns to a halt. According to the admission of one of Findley's colleagues, there were still many "young headstrong boys who had got arms in their hands, unwilling to give assurance of submission," and that they probably would remain recalcitrant "until convinced the army was approaching." Accordingly, Governor Lee marched further into the disaffected survey, reaching Parkison's Ferry, on the 8th of November, *without having encountered armed opposition* at any stage of his aggressive movement. Forsaken by those leaders who had urged them to take up arms, the misguided rioters fled to their homes at the approach of the army—and thus order and peace were re-established, ere a blow had been struck. On the day of his arrival at Parkison's Ferry, Lee issued a proclamation granting the amnesty previously offered to those who had accepted the terms of the peace commissions, and calling upon the people to take the oath of allegiance to the United States, which was in the form of the pledge exacted by the *ultimatum*,

*

being a solemn promise, henceforth to submit to the laws of the United States; to abstain from directly or indirectly opposing the execution of the act for raising a revenue on distilled spirits and stills; to support the civil authorities, and to afford protection to all officers and other citizens. Under instructions from Governor Lee, a number of arrests were then made in the four counties, the prisoners being turned over to the civil authorities for trial. After a few days, tranquility having been entirely restored, the troops, excepting a corps of observation of 2500 men under Morgan, were sent to their homes, and thus the Whiskey Insurrection ended.

CHAPTER V.

PERFECTING THE REVENUE SERVICE; NUMBER AND COMPENSATION OF OFFICERS.—LICENSES TO RETAILERS OF SPIRITS AND WINES. MODIFICATIONS OF THE EXCISE LAW IN FAVOR OF COUNTRY DISTILLERS.—REPEAL OF INTERNAL DUTIES; ITS CAUSES.—EFFECTS OF THE VARIOUS LAWS ON THE INTERNAL TAXATION OF DISTILLED SPIRITS.—COMPARATIVE TABLE SHOWING PRODUCTION, IMPORTS, EXPORTS AND CONSUMPTION OF SPIRITS DURING THE OPERATION OF THE EXCISE LAW, AND AFTER ITS REPEAL, UP TO 1810.—EFFECT OF IMPORT DUTIES UPON FERMENTED LIQUORS.—STATE OF VINE-CULTURE.—THE BREWING INDUSTRY IN 1810; DIFFICULTIES RETARDING ITS PROGRESS.

It remains to be stated that before the bloodless suppression of the Whiskey Insurrection had been effected, a number of circumstances, other than the popular prejudice, and the timidity and reluctance of excise-officers, conspired to render the collection of taxes extremely difficult, even in States where the Federal administration generally found hearty support. Prominent among these were: the inevitable imperfections of the system, growing out of the experimental character of the institution; the insufficiency of the number of officers, and the want of adequate compensation for excise-services. When Congress, intent upon avoiding the imposition of direct taxes,* by the Act of June 5, 1794, still further extended the system of internal taxation, by imposing duties upon carriages for the conveyance of persons, upon auction sales, snuff and snuff-mills, refined sugar, and upon the retailing of wine and foreign

* In 1794, the special committee on public credit recommended the raising of \$750,000 by direct taxation—a recommendation which was promptly rejected.

spirituous liquors, it became absolutely necessary to adopt measures calculated to remove the difficulties before mentioned; and this was accomplished by an act, approved June 5, 1794, making further provisions for the collecting of duties on foreign and domestic distilled spirits, wines and teas. This act authorized the President to establish new districts and surveys, make such alterations in, and additions to, those already existing, and appoint as many additional officers as to him appeared expedient and necessary. By virtue of this law the President, under date of April 9th, 1795, re-organized and perfected the revenue-establishment by forming new, and altering old, surveys; by appointing additional officers and increasing their compensation. The annual salaries of supervisors, of whom there still was one in each State and Territory, were fixed at from five hundred to thirteen hundred and fifty dollars; in addition to which sums, these officers were allowed a commission at a certain per cent. of the gross revenue in their several districts, and a fee for certain duties connected with their offices. Inspectors were allowed an annual salary of from four hundred and fifty to five hundred dollars in addition to certain commissions and fees; while the compensation of collectors consisted entirely of such commissions and fees.* The entire service, in 1796, consisted of sixteen supervisors,† twenty-two inspectors of surveys, two hundred and thirty-six collectors, and sixty-three auxiliary officers; the total compensation amounted to a little less than seventy-eight thousand dollars.

After the re-organization of the service the collection of internal taxes went on smoothly.‡ The tax imposed upon the

* Subsequently an increase of compensation became necessary, and was again effected.

† Vermont had been admitted, and Ohio and Tennessee, constituted as territories, were given one supervisor each.

‡ The tax upon conveyances was assailed on the ground of unconstitutionality, but by the decision of the Supreme Court in the case of *Hylton vs. the United States* (3 Dall., 171), was declared constitutional.

retailing of wines and spirituous liquors was in the form of a yearly license of five dollars, issued by the supervisors of revenue to retail merchants, *i. e.* to every person engaged in selling wine and foreign spirits (to be sent out of his place of business), in a less quantity, at one time, than thirty gallons of the former, and twenty gallons of the latter liquid. The law did not apply to keepers of taverns, inns, or places of entertainment, licensed and authorized under the law of a State.

Before considering the effect of internal and import taxes upon the domestic manufacture of distilled and fermented liquors, mention must be made of a number of laws, enacted subsequent to the organization of the revenue service. They were generally in favor of the so-called country distillers. To them the mode prescribed for entering stills, and the manner of paying taxes, were sources of some inconvenience and loss. In cases, for example, where the owners of stills were liable, by their entries, to pay the duty of fifty-four cents upon the capacity of the stills, it frequently happened that the destruction or failure of crops, whether of grain or fruit, either prevented distillation entirely, or considerably reduced the quantity intended to be distilled, at the time the entries were made. Special relief was provided in these cases by an act approved June 1, 1796. By an act approved March 3, 1797, owners of country stills, that is to say, of stills operated in places other than a city, town or village, and of a capacity of less than four hundred gallons, were given the privilege to pay the following licenses, in place of the former taxes, viz :

For a license for the employment of every still during the term of two weeks, six cents per gallon, according to the capacity or contents of every such still ; for a license for a term of one month, ten cents per gallon ; for three months, twenty-four cents per gallon ; for four months, thirty cents per gallon ; for five months, thirty-six cents per gallon, and for six months, forty-two cents per gallon.

Not yet satisfied with these modifications of the law in their favor, a certain class of country distillers sought to obtain a further concession in the form of *weekly* licenses, and, accordingly, in the second session of the fifth Congress, a recommendation to that effect was made by the House Committee of Ways and Means. Southern farmers, who mostly distilled fruit,—principally peaches—were to be benefited by this arrangement. It was contended that the preceding law, which fixed the *minimum* duration of a license at two weeks, leaving unchanged the requirement of entering stills at stated times, excluded four out of five of the owners of orchards in the Southern States from distilling their early fruit at all; that peaches ripened and rotted hastily; and that persons who had not enough fruit to employ their stills more than three or four days, would suffer their fruit to rot, rather than take a license for a fortnight. The obligation, under the existing law, of taking out separate licenses for distilling the fruit harvested at three different periods of the year, was represented as another hardship, involving expense and loss of time in going to and from the excise offices, which latter in many cases were situated at considerable distances from the homes of distilling farmers. The annual entry of stills, prescribed by law in all cases, whether or not the owners intended to work them, was also complained of, and led to the proposition that stills once entered should not require a renewal of entry, save when their owners intended to work them. None of these proposed alterations had the approval of Walcott (Hamilton's successor), and were consequently rejected. The only further concession made to country distillers was the act of January 29th, 1798, which provided "that it shall be lawful for all owners of stills which shall have been duly entered according to law, to make their election, at any time of the year, both as to the rate of duty which they may choose to pay for the employment of their said stills, whether for a year or such other shorter period, as

may be allowed by law ; and also as to the time of commencing such employment."

The laws on the internal taxation of distilled spirits remained in this state to the date of their revocation, in 1802; while the rate of imposts on distilled and fermented liquors, excepting certain wines imported into the United States, were not changed until the war of 1812, although the exigencies of part of Adams' administration (1797-1801), produced by the disquieting aspect of foreign affairs, led to the development of new sources of revenue—among them one still less popular than excises, viz: direct taxation.* As it is intended to bring under consideration, in this chapter, the general results of the external and internal taxation of liquors during the last decade of the past, and the first decade of the present century, it seems appropriate, in order to preserve the chronological order of events, briefly to narrate under what circumstances the excise law was repealed.

The origin of the opposition to the Federalist administration dates back, as has been seen, to Hamilton's fiscal system, beginning with the assumption of the State debts, and growing stronger under every subsequent measure of taxation—from the imposition of excise duties to the system of direct taxation introduced under Wolcott's administration of the Treasury Department. Other causes arose, it is true, to solidify and strengthen the opposition, but the fiscal questions remained landmarks of party division throughout Washington's and Adams' administrations, and formed an essential part of the *credo* to which Jefferson owed his accession to the presidential chair. Under these circumstances it was but natural

* For augmenting the army and perfecting coast defences the act of July 14, 1798, imposed a direct tax of \$2,000,000 on houses, lands and slaves. Singularly enough this law also met with open resistance in Pennsylvania ; in this case however, the riot—dignified in history with the appellation of the Fries Insurrection—was quelled almost before it was begun.

that the Democrats (previously called the Republicans) should, on assuming control of the government, hasten to abolish the systems they had so vigorously and ably assailed. The auspicious state of affairs under which they came into power* necessarily confirmed their resolution and accelerated their action. On the 30th of December, 1801, twelve days after Jefferson had, in his inaugural address, recommended the abolition of all internal taxes, the House Committee of Ways and Means were instructed to inquire into the expediency of repealing duties on stills and distilled spirits, and other internal duties. In their report, submitted March 8, 1802, the committee, after dwelling upon the difficulty and expense of collecting the tax on twenty-two thousand country stills, scattered over an immense, but thinly settled territory; and recounting the popular objections to excises, viz: the oppressive and vexatious character of the taxes, their hostility to the genius of a free people and their tendency to multiply offices, recommended the revocation of the laws relating to internal duties. In the discussion which attended the resolution calling for an inquiry into the expediency of abolishing these taxes, the expense of collection formed the principal source of acrimonious wranglings, and led to some very inaccurate statements on the part of the supporters of the new administration. The truth is, that, compared with the cost of collecting imposts and tonnage duties, the expense of securing excise taxes seemed disproportionately large. The reasons are too obvious to require more than passing notice. The amount of internal taxes, imposed upon but a few articles, was comparatively small; the objects taxed were widely dispersed over the entire Union; and the tax-payers

* Hildreth writes of this period: "The treasury was fuller, the revenue more abundant than at any previous period. Commerce was flourishing, and the pecuniary prosperity of the country was very great. All the responsibility of framing institutions, laying taxes, and providing for debts, had fallen on the ousted administration." (Vol. iv., p. 419.)

were not inclined to aid the collectors. In proportion as the amount of taxes increased and the opposition to excises subsided, the cost of collection decreased. Thus in 1795, when the internal revenues from all sources amounted to but \$528,481 the cost of collection was twenty-five per cent.; while in 1801, the total revenue being double the former amount, the expense of collection only amounted to twelve per cent. The difference between the cost of collecting the taxes on distilled spirits in the country, and in cities, towns or villages, amounted to almost fifty per cent., a fact which in itself sufficiently explains the causes of the expensiveness of internal taxes at the time in question. An attempt on the part of the minority, to have only the taxes on country stills revoked, leaving the excise on spirits distilled in towns and villages intact, proved abortive, and the entire system was finally abolished. The question of temperance was remotely hinted at, but failed to receive any consideration whatever.

As to the effect, upon the respective manufactures, of internal and external taxes upon distilled, and import duties upon fermented liquors, during the four years from 1791 to 1795, it goes without saying, that no reliable conclusions can be deduced from the reports of the Treasury Department, inasmuch as, before the suppression of the Whiskey Insurrection the collection of taxes, save in the New England States, was so irregular as to afford no index to the quantity of spirits actually distilled. In Pennsylvania, for instance, where about five thousand public and private stills were in operation, in 1790, only eight hundred stills, producing 250,380 gallons of spirits, had been entered from July 1, 1791 to July 1, 1792. Virginia paid but \$12,000 on distilled spirits during the same period; whereas in 1795, with decreased rates, she paid \$65,990. It does not follow in either case that less whiskey was manufactured during the fiscal year 1791-1792; but it *does* follow, from what has been related before, that the law

was evaded. The changes made in the rates before and after the Insurrection, and the mode of computing taxes according to the capacities of stills, in any event precluded accurate statements of quantities distilled, and the only guide in respect to a comparison must be the amount of duties paid. In order to give as clear a statement as possible of the operation of the laws, it seems advisable to follow the various official reports on the subject.

The amounts of duties on spirits distilled in the United States to 1795, inclusive, were:

1792.....	\$208,942
1793.....	837,705
1794.....	274,089
1795.....	837,775

The estimated quantity of spirits distilled in 1791-92 from foreign material, in stills entered according to law, was 2,210,559 gallons, and from domestic material 944,004 gallons. For the year ended June, 1795, the quantity distilled from foreign material, in stills which were entered according to law, may be estimated at 1,500,000 gallons, yielding a gross amount of revenue of \$141,989; whereas the gross income from spirits distilled from domestic material amounted to \$218,036. It will be seen at a glance, that the state of things of 1792 was reversed in 1795; during this brief period the manufacture of rum decreased as considerably as that of whiskey and spirits from domestic fruit increased. The war in the West Indies explains the former fact. The importation of molasses in the year 1794 was less than in 1791, by 3,700,000 gallons; and, owing to the high price of sugar, a greater proportion of the quantity of molasses imported was consumed in the raw state. The manufacture of spirits from domestic products yielded a much greater sum in 1795, than either in 1792, in 1793 or in 1794; yet the quantity for which taxes were paid remained far behind the quantity distilled. The principal causes of this discrepancy are known

to the reader. There may, however, have been, and no doubt there was, an actual decrease in the manufacture. The Commissioner of Internal Revenue, in his report of the 5th of March, 1796, points out some reasons for this. "The excessive prices," he says, "of grain, of marketable and exportable fruits, and of cider, have deprived the distillers of a very large portion of the means to employ their stills. In all places the inducements to distil have been greatly diminished by the increased competition of the miller and merchant of every species of grain." Although no accurate data can possibly be obtained at this late day, yet it may readily be taken for granted, that a part of the decrease was due to the abandonment of distillation by a large portion of the farmers. From speeches made in Congress it appears, that many Southern farmers let their fruit rot, rather than pay taxes for a longer period than they intended to work their stills; and Findley states in his History of the Insurrection, that many country distillers, who were too conscientious to evade the law, abandoned distilling altogether. In 1796 the manufacture of rum amounted to 2,296,300 gallons, that of spirits distilled from domestic products to 1,009,797 gallons. The importation of molasses in 1795 had been much greater than in the previous year, which fact explains the increase in the production of rum. For the succeeding years, up to 1802, the total revenues from all internal duties on distilled spirits were:

1797,	\$565,984,	of which amount licenses to retailers yielded,*	\$63,861
1798,	584,923,	"	64,828
1799,	573,086,	"	66,434
1800,	580,508,	"	65,159
1801,	593,000,	"	69,173

* In 1795 and 1796 the retail licenses yielded \$54,781 and \$63,763 respectively. In 1795, there were 3,203 licensed retailers of wine and 7,461 licensed retailers of foreign spirits; in 1801 the former numbered 3,556; the latter 10,332.

The quantity of spirits annually distilled from foreign material remained nearly the same throughout this period, ranging from 1,500,000 to 2,000,000 gallons; the average annual revenue from this source being \$160,000; hence the increase of revenue, as shown in the above table, is attributable to an augmentation of spirits distilled from grain and fruit of the growth of the United States. With the relaxations of the law up to 1795, country distilling rapidly recuperated, or to be more concise, the amounts of taxes paid on spirits distilled in the country approached the actual quantity distilled far more nearly than in preceding years. Hamilton, in 1791, estimated the annual domestic production of ardent liquors of both kinds at 6,500,000 gallons; but it was not before the year 1775 that the amount of revenue from this source approximately corresponded with this estimate. During the ten years, from 1792 to 1802, the importation of spirits of all kinds increased from 4,679,993 in the former, to 8,396,738 gallons in the latter year; the exportation increased but very slightly, viz: from 1,032,050 to 1,313,728 gallons.

Of the incidental objects sought to be attained by the various laws on the liquor traffic, one was the protection of the home products against the competition of the foreign article; the other a diminution of the consumption of ardent spirits. Neither aim was fully realized. The protection of spirits from the products of American husbandry *was* effected; but it required higher duties, to enable American distillers of foreign material to compete with foreign manufacturers; besides, the former labored under mechanical difficulties, which rendered their product of a quality inferior to that of foreign countries. In a petition submitted to Congress in 1798, a number of distillers of Rhode Island asked for an increase of the duties upon imported spirits, on the ground that they had invested considerable sums in the erection of distilleries for the distillation of rye and molasses; but owing to the great cheapness of rye

in Holland, and the hazard and difficulty which attended the obtaining of molasses, found themselves unable to compete with foreign manufacturers of rum and gin. The House Committee of Ways and Means, to whom this petition was referred, reported adversely thereon in the following words: "The petition seeks to secure a preference to the domestic manufacture, which would have the effect of taxing the consumer of imported spirits, for the benefit of the home distillers. From this view of the subject, the Committee are of the opinion that the petition ought not to be granted." What a departure from the original purpose of the law-makers! A still higher duty might have answered the moral purpose contemplated, had the government had the means to enforce the excise law of 1791, or even that of 1792, in spite of popular opposition, and notwithstanding the many obstacles, which the great extent of territory and the widely dispersed population threw in the way of such a system of taxation. In that case consumption would surely have been decreased, as a high import duty would have diminished importation, and a moderate tax on domestic spirits would inevitably have restricted country distilling. In view of the habits of the people, and of the decisive importance which the liquor question had assumed in the political agitations of the day, these hypotheses seem chimerical. But even unfavorably as matters stood, there is incontrovertible evidence, that the legal restrictions laid upon the manufacture of ardent spirits, though they did not positively diminish consumption, at least *had a very strong tendency to prevent a dilatation of that ratio of increase which occasioned so much anxiety before 1790.* This can easily and effectively be demonstrated. The following table, compiled from official reports, and showing population, production, imports, exports and consumption, needs some explanation in order to be rightly understood. In the third column is given the production of domestic spirits, as estimated by the Treasury De-

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partment for the years set opposite the quantities produced; in the sixth and succeeding columns the period from 1790 to 1800, although consisting of eleven years, was treated as a decade, so as to obtain a basis of calculation corresponding with the official enumeration of the inhabitants of the United States. The excise system remained in force until 1802, and for this reason the years 1801 and 1802 should properly have been included in the first period, but from the nature of the official data obtainable, such a division of the two decades would have occasioned erroneous conclusions. The statements of the average quantities annually imported and exported during the two periods are based entirely upon official returns; the quantity of domestic spirits produced in 1810 is stated in the *Digest of Manufactures*, submitted by President Madison to the Senate on the 5th of January, 1814. (Am. State Papers; Finance, vol. i., p. 763.)

Year.	Population.	Domestic production of distilled spirits in the year named, in gallons.	Domestic production of Malt Liquors in the year named, in gallons.	Domestic production of Wine in the year named, in gallons.	Import of spirits during decade, in gallons.	Average quantity of spirits imported annually during decade, in gallons.	Import of Malt Liquors during decade, in gallons.
1790	8,929,914	6,500,000	Unknown.	Unknown.	57,864,016	5,359,456	2,923,224
1800	5,308,488	11,000,000	"	"		8,846,179	1,608,621
1810	7,389,861	25,804,963	5,754,735	11,765			

Year.	Average quantity of Malt Liquors imported annually during decade, in gallons.	Import of Wine, other than Madeira, during decade, in gallons.	Average quantity of Wine imported annually during decade, in gallons.	Average quantity of Spirits exported annually during decade, in gallons.	Average quantity of Malt Liquors exported annually during decade, in gallons.	Average quantity of Wine (not Madeira) exported annually during decade, in gallons.	Average annual consumption of Spirits during decade, in gallons.	Average annual consumption of Wine and Beer during decade, in gallons.
1790	265,656	17,168,924	1,560,811	899,960	111,338	842,467	15,859,496	....
1800		82,514,188	3,281,418	1,435,576	90,353	1,644,817	82,715,585	7,471,846
1810								

Taking Hamilton's estimate of the consumption of ardent spirits in the United States before the year 1790 (Am. St. P., vol. vii. p. 156), and the showing of the foregoing table, we obtain the following:

<i>Per capita</i> consumption before 1790.....	11.20	quarts.
Average annual <i>per capita</i> consumption 1790-1800..	11.57	"
" " " " 1800-1810..	18.08	"

Another incidental object of the laws in question was the encouragement and protection of the manufacture of malt liquors. Any one acquainted with the results of taxation in more recent years will incline to the opinion, that the rate of import duties imposed upon malt and malt liquors by the Act of May 8, 1792, was not of a strongly protective nature; yet, in view of the many impediments which retarded the development of the brewing industry, it must be admitted that a higher duty upon these articles might, without accelerating the progress of brewing, have injured the cause of temperance by restricting importation. It was surely not anticipated, and could not reasonably be expected, that such a change of habits and tastes, as seemed necessary to popularize the use of fermented liquors, could be effected within one or two decades; furthermore, it must have been foreseen, that the manufacture of these beverages would at first be confined to certain localities, and depend for its prosperity upon the character and composition of the population. That the brewing industry progressed considerably in those localities where it was introduced, shortly before and after the Revolution, is evidenced by a number of circumstances. As early as 1807 the production of malt liquors, according to Gallatin's statement, was nearly equal to the consumption, yet the importation of malt into Pennsylvania had already ceased in 1793;* thus showing that the adjuncts of brewing in the large establishments were rap-

* Coxe's View of the United States; p. 43.

idly being perfected. In Philadelphia, where the agitation in favor of the substitution of fermented liquors for ardent spirits had found most favor, the use of beer had become very general,* and soon extended into the larger cities of adjoining States. The state of the brewing industry in 1809-10 appears from the following table, taken from the *Digest of Manufactures* already quoted :

States and Territories.	Population.	Number of Breweries.	Beer, Ale and Porter in Barrels of 31½ Gallons.	Value.
Massachusetts	700,745	....	22,400	\$86,450
New York	959,049	42	66,896	340,766
New Jersey	245,562	6	2,170	17,329
Pennsylvania	810,091	48	71,273	376,072
Delaware	72,674	2	476	7,616
Maryland	380,546	7	9,330	69,380
Virginia	979,622	7	4,251	23,398
Ohio	230,760	13	1,116	5,712
Georgia	252,433	1	1,878	11,268
District of Columbia.	24,023	3	2,900	17,400
	4,655,505	129	182,890	\$955,791

* Beer was brewed in Philadelphia for several years before the revolutionary war, and soon after peace the more substantial porter was made by Robert Hare. Until within three or four years (1810), the consumption of that article had greatly increased, and is now the common table drink of every family in easy circumstances. The quality of it is truly excellent : to say that it is equal to any of London, the usual standard for excellence, would undervalue it, because as it regards either wholesome qualities or palatableness, it is much superior ; no other ingredient entering into the composition than malt, hops and pure water ; and yet to a foreign porter palate, accustomed to the impression left by the combination of the heterogeneous compounds called English malt liquors, our home-brewed stuff will,

The *per capita* production of malt liquors in the States named (the total amount produced being 5,754,737 gallons), amounted to almost one and one-fourth gallon, or, to be precise, to 4.98 quarts. This does not include what in the digest is styled ancient fermented liquors, made of honey—the old German meth, here called metheglin and mead—of which considerable quantities are said to have been produced and consumed by private families. Surely, this is a gratifying development of a new industry within so brief a period, and under difficulties of which the present followers of the trade can scarcely form an adequate idea. That part of the *Digest of Manufactures* which treats of these difficulties deserves particular mention. It is stated therein that

“The moralizing tendency and salubrious nature of fermented liquors—beer, ale, porter and cider*—recommend them to a serious consideration, *and particularly in our country*. The difficulty and expense of procuring a supply of strong bottles, and a peculiar taste for lively or foaming beer, which our summers do not favor, have been the principal causes of the inconsiderable progress of the manufacture of malt liquors, compared with distilled spirits. The absence, or the infrequency of malting, as a separate trade, has also operated against brewing in a

no doubt, appear insipid. Within a few years pale ale of the finest quality is brewed and justly esteemed, being light, sprightly and free from that bitterness which distinguishes porter. The quantity of each particular malt liquor brewed in Philadelphia cannot be given, as there is no excise nor duty upon hops or malt, and if there be *no other mode of ascertaining the point, it is to be hoped we shall ever remain ignorant on the subject*. Great quantities of beer are exported to other States. The hops are almost entirely brought from New England; much of the barley comes from Rhode Island.—(Picture of Philadelphia in 1810, by Mease.)

* For the full text of the observations on the advantages of vine-culture see Appendix.

small way and in families. The great facility of making and preserving distilled spirits has occasioned them exceedingly to interfere with the brewery. The liquor of peaches, hitherto deemed incapable of use without distillation, greatly prevents the use of beer in a very extensive region of our country, where the peach tree grows with the freedom of a weed, and where its fruit is of the best quality. Cider, which is abundantly produced in another very extensive region, rivals fermented malt liquors as a common drink, and as a material for a customary concoction (the cider royal) and for distillation."

The want of bottles, it will be remembered, was pointed out during the discussions in the first Congress, as an impediment to brewing; but the brewer of the present day will scarcely appreciate the stress laid upon this want, unless a full account could be given him of the character of the malt liquors brewed in those days. Unfortunately, no such account can be obtained; yet a conclusion may be ventured from the statement that, until a Philadelphia brewer, of the name of Robert Hare, invented, in 1809, a peculiarly constructed cask and faucet, no method was known of preserving beer, on tap, in partly filled vessels. What the word *preserving* means in this connection will appear from the following passage of the *Digest*:

"The want of a head, or top of foam, is now observable in the tap beers of Europe, and it is presumable that this object of fancy or taste will not, therefore, be in future deemed indispensable in American tap houses and families. We have been used to consider the want of this foam as an evidence of badness."

That the use of the liquor of peaches prevented the introduction of the brewing industry into the Southern States, is an observation of as much force to-day as it was seventy years

ago; but later experiences have demonstrated the fact, that the influence of climatic conditions, coupled with the high price of ice, is quite as unfavorable to the industry as the abundance of fruit and the taste of the people. In addition to a scarcity of bottles there also was a want of cork and wire for bottling purposes. Establishments for manufacturing these three articles were just beginning to grow into some importance, and, of course, demanded protection, which was granted at least to one of them. By the Act of March 27, 1804, quart bottles, which, in order to foster the brewing industry, had theretofore been exempt from the duty upon glass-ware, were taxed sixty cents per gross; yet the home supply remained behind the demand.

All these impediments, however, would not so materially have retarded the progress of brewing, if laws tending to restrict country distilling could have been maintained; and, from the standpoint of true temperance, nothing could have appeared so desirable as a judicious restraint upon what might be styled rural distillation. All authorities concur in the opinion—recently confirmed by the voluminous report of the Statistical Bureau of Switzerland*—that in Sweden unrestricted distillation in the rural districts rendered intemperance a national vice of consequences all the more pernicious as, owing to the unavoidable deficiencies of a primitive mode of distillation, the spirituous liquors produced were of an extremely ardent nature. But it was precisely in respect to country distilling, that our first restrictive laws were only partially successful. Those persons who distilled for the trade, cheerfully obeyed the laws from the very beginning; and had they not elected to do so, little difficulty could have been experienced in controlling and coercing them. It was not the trade distiller, if this term may be allowed, but the

* Zur Alcoholfrage. Vergleichende Darstellung der Gesetze und Erfahrungen, &c. (Bern, 1884); p. 68.

distilling farmer from whom the opposition to excises emanated, and with him, as we have seen, the question resolved itself into one of personal rights, on the one hand, and of a limitation of the taxing power of the Federal Government, on the other.

Insufficient, both as to time and mode, as has been the test to which the excise system was subjected, it was, nevertheless, proved beyond question that, coupled with a sufficiently high import duty, it could have fully realized the ethical objects of its framers, if the Government had been able to execute it rigorously, and the people had been willing to live up to it. From the foregoing tabular exhibit it is manifest, that after the internal duties had been abolished, the import duties remaining virtually intact, the people quickly relapsed into their former habits, growing more and more addicted to the use of ardent spirits from year to year. The growth of domestic distillation from materials of home production furthermore received, as that of all domestic manufactures did, an additional impetus from the suspension of foreign commerce, brought about by the decrees of Berlin, Milan and Bayonne, the British orders in council, and the consequent cis-Atlantic Embargo, Non-importation and Non-intercourse Acts.

CHAPTER VI.

FISCAL POLICY UNDER JEFFERSON'S AND MADISON'S ADMINISTRATIONS. — GALLATIN'S FINANCIAL VIEWS. — PROTECTION OF DOMESTIC MANUFACTURES. — GALLATIN'S PROPOSITIONS ON THE SUBJECT. — SUPPOSITION THAT IN CASE OF WAR THE DOUBLING OF EXTERNAL DUTIES WOULD MEET ALL EXIGENCIES. — SPIRITS SINGLED OUT AS CAPABLE OF BEARING HEAVIEST EXTERNAL TAX. — TIMID POLICY IN RELATION TO INTERNAL LIQUOR TRAFFIC. — EFFECT OF IMPENDING WAR WITH GREAT BRITAIN. — CHANGE OF FISCAL POLICY; RETURN TO HAMILTONIAN PRINCIPLES. — EXCISE SYSTEM PROPOSED AND IGNORED. — IMPORT TAXES DOUBLED. — REVERSES OF WAR. — MADISON URGES IMPOSITION OF INTERNAL TAXES. — CONGRESS ACTS ON RECOMMENDATION. — INTERNAL REVENUE SYSTEM ENLARGED; ADDITIONAL EXCISE DUTIES ON SPIRITS. — TERMINATION OF WAR. — GRADUAL REDUCTION OF EXTERNAL AND INTERNAL TAXES, AND FINAL ABOLITION OF THE LATTER DUTIES. — MONROE'S POLICY; FORECAST OF HIGH PROTECTIVE MEASURES. — RETROSPECT; EFFECTS OF PRECEDING LAWS.

The fiscal policy inaugurated under Jefferson's, and sought to be maintained under Madison's administration was the natural outcome of a plethoric exchequer; its basis was the principle of external taxation. In case of war loans were to be relied on for defraying extraordinary expenses. This policy is best characterized in the following passage of one of Gallatin's annual treasury reports :*

The geographical situation of the United States, their history since the Revolution, and, above all, present events remove every apprehension

* Annual report of the Secretary of the Treasury of December 10th, 1808.

of frequent wars. It may, therefore, be confidently expected that a revenue derived solely from duties on importations, though necessarily impaired by war, will always be amply sufficient, during long intervals of peace, not only to defray current expenses, but also to reimburse the debt contracted during the few periods of war.

During the whole of Jefferson's first and half of his second term of office the revenues derived from specific and *ad valorem* duties exceeded by two millions the amounts necessary for the maintenance of government, and the payment of the interest, and part of the principal, of the debt. Although various modifications of the tariff laws were effected during that time, the general productiveness of the duties was not disturbed; the transfer to the free-list of a number of articles, hitherto taxed *ad valorem*, being counter-balanced by the imposition (by the Act of March 26th, 1804) of an additional duty of $2\frac{1}{2}$ per cent. on the value of goods then paying an *ad valorem* duty, and by the augmentation of the list of articles paying specific duties, effected by Act of March 27th, 1804. The increase of the rate per cent. *ad valorem* was intended, as the act states, for the protection of the commerce and seamen of the United States against the Barbary Powers; whereas the increase of the number of specific duties was a purely protective measure, adopted in conformity with a report of the House Committee of Commerce and Navigation, dated February 21, 1803. In this report, occasioned by a great number of petitions from the manufacturers of over a dozen articles, the statement that the existing imposts did "not operate as protecting duties to our infant manufactures," was coupled with the recommendation, that a plan be submitted for laying new and more specific duties on imported goods, wares and merchandise, in such manner as neither to increase nor diminish the revenue. Accordingly, a number of raw materials, among them the bark of the cork tree, were declared free of duty, and the list of articles,

paying specific duties was so extended as to include most of the manufactures of the petitioners.* From these changes of the law it will readily be inferred that the new fiscal policy, though apparently aiming at a tariff for revenue only, did not exclude considerations of a Protectionist character; in fact, in his report relative to the above proposition for laying new specific duties, Gallatin expressed the opinion that the legislature should introduce, from time to time, such modifications as might appear most favorable to the agricultural and manufacturing interests of the country. Petitions for the protection of manufactures continued to be presented in great numbers, even after the suspension of foreign commerce had considerably decreased importation, and contributed no little to the development of our industries.† In 1809 Gallatin was instructed to report a specific plan for the encouragement of manufactures; but he failed to do so for the want, as he claimed, of sufficient information. In 1810, however, he proposed, in a general way, the alternative of increasing the import duties or granting loans to manufacturers, for which latter expedient, as we have seen, the first Congress had established a few precedents. At about the same time—the danger of a war with either England or France becoming more and more imminent—he reiterated the opinion formerly expressed, that no other sources of revenue save increased import duties and loans would be required in case of a conflict with a foreign nation. He thought that these duties might be doubled without inconvenience or danger. A more suggestive intimation could not have been given to the domestic manufacturers; in consequence of it, petitions poured in from all quarters, and received favorable consideration on the part of the Congressional com-

* This additional list included the duty on black quart bottles, mentioned in the preceding chapter.

† In the "*Digest of Manufactures of 1810*," the total value of domestic products is estimated at \$120,000,000.

mittees to whom they were referred. The protection of the domestic manufacture of ardent spirits from foreign materials was not again prayed for since the rejection of the petition mentioned in the last chapter; but the Secretary of the Treasury, who, unlike his predecessors, ignored the moral side of the question, and, unless forced to do otherwise, treated the internal liquor traffic as a sort of political *touch-me-not*, repeatedly expressed the opinion, that these articles could well bear additional duties. Thus when, on the 18th of January, 1811, he was asked to give his opinion as to what particular articles could, without injury, be taxed more heavily than they were at the time—the object being to make good the deficiency likely to grow out of a proposed inhibition of the importation of articles coming from Great Britain and her colonies—he stated that spirits, wines, teas, sugar and coffee would under any circumstances continue to be imported, and that therefore an increase of duties on these articles would be most productive.

Seeing that the liquor question had proved such a dangerous stumbling-block to former administrations, it is not much to be wondered at that, by a tacit understanding on the part of the executive officers, a *noli-me-tangere* policy was pursued in all matters relating to country distilling. Yet it must not be concluded from this, that the temperance movement was entirely lost sight of. While no one seemed sufficiently courageous to take up the gauntlet thrown down by the distilling farmers of the country, the idea of diverting popular taste from distilled to fermented liquors continued to be agitated, as has been seen from the *Digest of Manufactures* of 1810. That the manufacturers of malt liquors were fully conscious of this favorable side-current of opinion, appears from a petition of a number of New York brewers, submitted to the House of Representatives on the 3rd of February, 1812, in which the prayer for protection was justified in the following words:

It is not for us to expatiate on the benefits which may result to the community, as to the preference, in point of health, which malt liquor may have to that of ardent spirits, or of the policy of encouraging the one, and of discouraging the other, in a moral point of view ; these are considerations, so connected with individual and general good, and so according with the system adopted by Congress promoting the manufactories of our country, and so congenial with the spirit of the nation, that we shall forbear expressing much on the subject."

The impending declaration of war against Great Britain furnished a temporary solution of the mooted question of Protection in all its far-reaching and multiform ramifications. What to Gallatin threatened to become a Gordian knot was now cut asunder by the sword of war. The same calamitous occurrence completely subverted that financier's fiscal policy and induced a qualified return to Hamiltonian principles of taxation. When the means for the preparations for war were being discussed, a very extensive armament having already been decided upon, Gallatin, on the 9th of January, 1812, in answer to an inquiry made by the House, proposed among other means of revenue, the imposition of a stamp duty ; a direct tax ; duties on carriages, auction-sales, refined sugar, and spirits ; duties on licenses to distillers and to retailers of wines, spirits, and any other species of merchandise. Compelled by the inflexible logic of events to accommodate himself to a public recantation of nearly all his strictures and criticisms on the official acts of his first predecessor ; forced to recommend the very measures the application of which he had erstwhile characterized as unjust, vexatious and oppressive—he naturally strove to present plausible excuses for his sudden conversion to the fiscal creed of his former opponents, and to show that, in his case, circumstances, differing essentially from those of the Hamiltonian era, rendered necessary and proper what formerly was unnecessary and improper. In this attempt he was least successful so far as his recommendation relative to duties on domestic spirits was concerned ;—in truth, in his

argument in favor of such taxes he, unconsciously perhaps, adopted Hamilton's language, introducing his remarks with this sentence :

There is not any more eligible object of internal taxation than ardent spirits.

It was the *mode* of such taxation to which he now confined his objections, and here a touching solicitude for the welfare of country distillers—a powerful body of voters—was again permitted to shape the guide for legislation. He deemed objections to an excise on spirits particularly strong with respect to persons who were not professional manufacturers, and who, only occasionally, distilled the produce of their farms; and even as to them he wished to have a distinction made between farmers who distilled fruit, and those who used grain or other material. His proposition in relation to this subject was couched in the following words :

“ That duties on the quantity of spirits distilled should be levied only on spirits distilled from foreign materials, at the rate of ten cents per gallon, distilled, and on other distilleries employing stills, the aggregate of which shall contain more than four hundred gallons, at the rate of three cents per gallon, distilled ; and that, instead of a duty on spirits or of licenses in proportion to the time employed, all other distilleries should only pay an annual tax of five dollars for each still solely employed in the distillation of fruit, and of fifteen dollars for each still otherwise employed.”

Excepting the rates, his proposed license-system corresponded with that introduced during Washington's administration. Retailers of wine and of spirits generally were to pay twenty dollars annually, and retailers of domestic spirits fifteen dollars. The amount of revenue to be derived from the manufacture of spirits was estimated at \$400,000 ; that from licenses at \$50,000, including those which were to be granted to retailers of foreign merchandise. The timid, almost apologetic manner in which the taxing of country stills was proposed is easily traceable to the occurrences described

in previous chapters; it is so much in the sense of a political *captatio benevolentiae* that a search for other motives seems superfluous. Yet, in justice to truth, it must be stated that there was at the time a general inclination, felt alike in many countries of Europe and in the United States, to take it for granted that *unrestricted* country distilling was an indispensable adjunct of husbandry, enhancing or depreciating the value of agricultural labor in proportion to the greater or lesser degree in which it was practised. This opinion prevailed to an alarming extent in the Scandinavian countries and the northern parts of Germany, and in no small degree in our country. Among the advantages attributed to this primitive manufacture was—to quote but one more in addition to the many already cited—the security it was said to afford against the desolation of possible famines, inasmuch as the cereals used for distillation, in times of plenty, would form a surplus of agricultural produce available for milling purposes, in times of want. It is a matter for conjecture, however, whether Gallatin would have allowed such considerations to determine his propositions, if his antecedents had not placed him in the foremost ranks of those who held a restriction of country distilling to be unrepugnant in theory, and oppressive in practice.

As was to be foreseen, the legislative majority, which in matters of finance had been accustomed to follow Gallatin's lead, could not, at such short notice, be induced to reconcile what was now asked of them with what they had been taught to regard as the only proper and popular course. Even after war had been declared, and when the prospects of raising sufficient revenue for the defrayal of extraordinary expenses seemed anything but brilliant, this plan of imposing direct and internal taxes failed to find favor. It was reserved for a future day, when the exigencies of war, arousing the patriotism of the people, might be expected to so operate on popular disposition as to win its approval for any measure deemed essential to the achievement

of victory. Increased import duties were the only source of revenue applied immediately after the declaration of war. The tariff Act of July 1, 1812, imposed an addition of 100 per cent. on all duties hitherto levied upon goods, wares and merchandise imported into the United States, with a further addition of 10 per cent. upon goods imported in foreign vessels. The authorizing of new loans to the amount of twenty-seven millions, and the issuance of treasury notes to the amount of five millions were depended upon for the discharge of immediate obligations necessarily contracted in the prosecution of the war which, meanwhile, had been declared and carried on with varying success on land and sea. When the thirteenth Congress convened, in its first session (May 24, 1813), Madison in his annual message represented the financial condition of the government to be such, as to require the development of new sources of revenue; unless this was done, the revenues for 1814, accruing under existing provisions, would prove insufficient to cover the ordinary expenses, and the increased interest on the public debt. As to the nature of these additional revenues, Madison stated that the object in view could be best attained by a well-digested system of internal taxes, "which will have the effect, both of abridging the amount of necessary loans, and of placing the public credit on a more satisfactory basis." The Committee of Ways and Means of the House, in reporting favorably on this part of the President's message, recommended the re-introduction of the former internal revenue system, on the ground, that its principle had before been sanctioned by a vote of the House of Representatives, and was therefore preferable to a new system, the principles and details of which could not, under the pressure of circumstances, receive that mature consideration which should precede its adoption. Their proposition was, that a direct tax amounting to \$3,000,000 be levied, and internal duties be laid on stills, refined sugar, retailer's licenses, sales of auction, carriages,

bank notes, negotiable paper and salt, amounting in the aggregate to \$5,465,000. At the same time the committee submitted a separate bill for each of the objects of taxation named. By an act "for the assessment and collection of direct taxes and internal duties," approved July 22, 1813, the old system of internal revenue, on a larger scale, of course, was re-introduced with some modifications; and on the 24th of the same month the act laying duties on licenses to distillers of spirituous liquors received the President's approval. The first section of this law provides that every owner of a still or other implement used for distilling spirits shall take out a licence, and, if the amount of duties to be paid exceed the sum of five dollars, shall execute a bond conditioned for the payment of said duties at the end of four months after the expiration of the term for which the licenses were granted. The second section provides "that the licenses aforesaid shall and may be granted for and during the following terms or periods, and on the payment or securing of payment as aforesaid of the duties undermentioned, namely: For a still or stills employed in distilling spirits from domestic materials, for a license for the employment thereof for and during the term of two weeks, nine cents for every gallon of the capacity of every such still, including the head thereof; for one month, eighteen cents; for two months, forty-two cents; for four months, fifty-two cents; for six months, seventy cents; for one year, one dollar and eight cents. Half these rates of duty were to be paid upon stills employed wholly in the distillation of roots. For stills used in distilling spirits from foreign material the licenses were as follows: for the employment of every still or stills during one month, twenty-five cents for each gallon of the capacity; for three months, sixty cents; for six months, one dollar and five cents; for one year, one dollar and thirty-five cents. For every boiler, however constructed, employed for the purpose of generating steam in distilleries, double the amount on each

gallon of its capacity, which would be payable for said license if granted for the same terms and to employ the same materials for a still.

Shortly after the passage of this law,* the following taxes were imposed on licenses to retailers of spirits, wines, and merchandise "in cities, towns or villages, containing 300 inhabitants within the limits of one mile square, viz: to retailers of wines alone, twenty dollars; of spirits alone, twenty dollars; of domestic spirits, fifteen dollars; of merchandise other than wine and spirits, ten dollars; of merchandise including both intoxicants twenty-five dollars.

The vote of the House on the final passage of the bill imposing duties on licenses and distillers stood eighty-five to forty-nine. The time for remonstrances on the part of the majority against such measures of revenue, had passed. A preponderance of reverses over successes; the rapid progress of Indian hostilities, the partial blockade of the coast, and, before that, the operations of the Embargo and Non-importation Acts, by which the external revenue was reduced to a minimum, and lastly the disproportion between the amounts of the loans and the provisions made for their ultimate liquidation,—all these things combined to render an exercise of party discipline indispensable. Even with the increase of revenue from internal and direct taxes, the collection of which was not to commence until the year after the passage of the law, the expenses of carrying on the war could not be covered, and it was to be foreseen that, simultaneously with the authorization for new loans, an extension of the new system of taxation would have to be effected. Both Campbell, who succeeded Gallatin in the Treasury Department, and his successor, Dallas, soon became convinced that the only safety of the country lay in taxing the wealth of the nation, in all its available forms, to whatever degree the exi-

* Act of August 2, 1813.

gencies of war might dictate. One of the schemes of the latter financier, submitted to Congress on the 17th of October, 1814, included the taxing of a great number of articles of domestic manufacture, among them *ale, porter and strong beer*; and another extended to silverware, household furniture, gold and silver watches; to incomes, and legal documents of diverse descriptions.

When these suggestions were made, the fortunes of war had turned against the Union: The entire coast had been blockaded—encircled, as it were, by a “wooden wall;” Maryland and Massachusetts had been invaded; the city of Washington, fallen into the hands of the enemy, was ransacked and partly destroyed by fire; Baltimore had been attacked; a British war-ship had ascended the Potomac as far as Alexandria, Va.; and the financial condition of the country had become extremely precarious, indeed, the Union was practically bankrupt. These reverses were slightly offset, it is true, by the victory at Plattsburg, the brave defense of Baltimore and the comparatively successful operations against the British in the South; yet, all in all, the Union never was in narrower straits than at that time. Under such circumstances, the state of affairs appealing powerfully to the patriotism of the people and exacting, in self-defense, unusual sacrifices, it was but natural that the old claim of the domestic distillers, formerly magnified and dignified into a so-called question of principle, became completely submerged in the flood of great events. It was for this reason that the recommendation of Dallas, to increase, far beyond existing precedents, the internal duties on spirits, was accepted as a matter of course and encountered not a single challenge that might have reminded one of the inveterate prejudices so often referred to in these pages. It was contemplated by Dallas to tax spirits, alike from domestic and foreign materials, at 25 cents per gallon in addition to the duties already levied under the previous law; and in his computation of the probable income from this

additional duty he assumed 24,000,000 gallons to be the annual production of spirits, excepting the products of stills of a capacity of fifty gallons. The tax which he had also proposed to levy on ale, porter and strong beer was estimated to yield a revenue of \$120,000, at 2 cents per gallon, on a domestic production of 6,000,000 gallons, annually.

A new excise law was passed and approved before the end of the year 1814, which provided that, after the 1st of February, 1815,

There shall be paid upon all spirits, unless specifically excepted, which after said day shall be distilled within the United States in any still or stills, or in any other vessel, or by aid of any boilers, as defined in the Act of July 24th, 1812, in addition to the duties payable for licenses therefor, the duties following, that is to say : For every gallon of such spirits distilled wholly or in part from foreign material, twenty cents ; and for every gallon of such spirits distilled from domestic materials, twenty cents.

In many respects this new law was far more rigorous than its immediate predecessor, embodying many of the provisions originally framed by Hamilton in his endeavor to prevent fraud. Indeed, in the matter of entries under oath, and the giving of security for the payment of the taxes as well as in regard to the penalties imposed for evasions and violations of the act, false swearing, etc., the law fully merited all the well-known objections urged against the first Federal excise laws ; while, in other respects, it relaxed somewhat the restrictions placed upon distillers, by diminishing the *minimum* terms for which licenses were to be granted, from a fortnight to one week, and by providing for a corresponding decrease of duties to be paid on the capacity of the stills so employed. Country distillers, that is to say : owners of one still only, whose capacity did not exceed one hundred gallons, and owners of boilers, whose capacity did not exceed fifty gallons, had the option to pay according to the old law, or twenty cents for every gallon distilled. Distillers of domestic spirits were accorded the right

to sell their product in any quantity, not less than one gallon, thus making them, if they elected to avail themselves of the privilege, distillers and retailers at the same time. A few days after the passage of this act,* the duties on licenses to retailers of wines and spirits were increased fifty per cent. Although the levying of an internal tax upon malt liquors had been recommended simultaneously with the increase of taxes on ardent spirits, it was not until the following January—when household furniture, watches and a great number of articles of domestic manufacture were taxed—that the proposition was acted upon. An *ad valorem* duty of six per cent. was then imposed on ale, porter and strong beer, being a very low rate compared with the taxes imposed on some articles of luxury—on manufactured tobacco, for instance, the duty on which was fixed at twenty per cent. *ad valorem*.

It is needless to narrate how, in the midst of multiplying fiscal troubles, just at a time when changeable Bel-lona began to smile upon our colors, the treaty of peace was promulgated (February 17th), and put a period to the lateral and upward movement of taxes and tax-rates. The legislative minds, who, but four weeks ago had been occupied in devising new sources of revenue, were now turned to the task of reducing the income. A strong disposition was manifested to at once abolish all internal taxes; but that would have robbed the Secretary of the Treasury of the ability to bring order out of the chaos into which the war had thrown the financial affairs of the country. The doubling of import duties had been adopted as a war measure, and must therefore be discontinued with the cessation of hostilities; the law in relation to it became inoperative by limitation, except so far as it referred to ardent spirits. In view of this decrease of revenues, from a source which was again beginning to flow

* December 21, 1814.

freely, the total abolition of internal taxes could not be thought of. In order to facilitate a gradual reduction of these taxes, however, it was proposed to retain the war tariff until the 30th of June, 1816.* This income secured, Dallas would have remodelled the fiscal system on the basis of certain permanent internal taxes and a comprehensive customs tariff, the latter to be determined upon in accordance with the requirements of a protective policy. It is worthy of note that Dallas, while recommending the retention, among others, of the internal taxes on refined sugar, proposed to abolish entirely the duties on distilled spirits, continuing in force only, at double rates however, the duties imposed by the Act of July 24th, 1813, on licenses to distillers. The abolition of internal duties on all other articles of domestic manufacture, including fermented liquors, and the reduction of taxes on licenses to retailers were also recommended. Most of the proposed reductions were speedily effected,† some of the new rates remaining in force until the 23rd of December, 1817, when the fifteenth Congress abolished all internal duties.

At the opening of the first session of this Congress, Monroe, who had in the meantime succeeded Madison in the

* Report of the Secretary of the Treasury, Am. State Papers ; Finance, vol. III, p. 16.

† By the Act of April 19, 1816, the duties on distillers' licenses were fixed as follows, the tax being on every gallon of the capacity of each still or boiler.

DOMESTIC MATERIALS.		FOREIGN MATERIAL.	
For one week,.....	4½ cents.	For one month.....	28 cents.
“ two “	9 “	“ two months.....	46 “
“ one month.....	18 “	“ three “	68 “
“ two “	36 “	“ four “	90 “
“ three “	54 “	“ six “	1.34 “
“ four “	73 “	“ eight “	1.86 “
“ five “	90 “	“ one year,	2.70 “
“ six “	1.08 “		
“ one year,	2.16 “		

Presidency, urged the discontinuance of the internal revenue system in these words :

It appearing that the revenue arising from imposts and tonnage, and from the sale of public lands, will be fully adequate to the support of the Civil Government, of the present Military and Naval Establishments, including the annual augmentation of the latter to the extent provided for, to the payment of the interest of the public debt, and to the extinguishment of it at the times authorized, without the aid of internal taxes, I consider my duty to recommend to Congress their repeal.

From the tenor of the rest of that part of the message which relates to this subject, it is evident that Monroe approved of internal taxes only in so far as their introduction was exacted by the insufficiency of external duties to meet the demands upon the treasury. This view evidently bore a causal relation to Monroe's desire, expressed in the same message, of seeing domestic manufactures protected and developed. In this connection he wrote :

Our manufactures will require the continued attention of Congress. The capital employed in them is considerable, and the knowledge acquired in the machinery and fabric of all the most useful manufactures is of great value. Their preservation, *which depends on due encouragement*, is connected with the highest interests of the nation.

The two quotations may be taken as an epitome of the policy which shaped the laws of taxation during the succeeding thirty years. It remains to be stated, that in the year previous to Monroe's inauguration, when the limitation of the prolonged war tariff necessitated a re-arrangement of imposts, Dallas submitted a report on manufactures, in which he advocated the encouragement and protection of domestic industries in much the same spirit, though not in the same brilliant manner, as Hamilton had done before him. Dividing the products of skilled labor into three classes, according to their ability or rather inability to compete with foreign products, he proposed as many grades of duties, so constituted as to give greatest advantages to those manufactures which seemed least capable of

withstanding competition from without. In their arguments and votes upon these propositions the majority of the House,—a very small one, it is true—recorded themselves as Protectionists pure and simple. Clay even went so far as to reverse the maxims hitherto enunciated, by asserting that in imposing import duties, revenue was merely an incidental consideration, and that the primary object was, to give the necessary support to agriculture, manufactures and commerce. The Senate to a certain extent curbed the high protective tendency of the House, and the result was a compromise, by which an extension, at least, of the protective system was hindered. As far as spirits were concerned, however, the new tariff was decidedly of a protective character; for in this instance, as before, the articles which commended themselves to the greatest share of protection were those whose manufacture called into requisition the products of domestic husbandry; and among these none had attained to such importance as the spirits distilled from grain and fruit. It may therefore be safely asserted that the change in the rates of import duties effected at that time, grew out of the predominance of Protectionist predilections, kept within bounds by the determined efforts of the minority in Congress. Spirits from grain were taxed at from forty-two to seventy-five cents per gallon,* according to strength; all other spirits, from thirty-eight to seventy cents per gallon, according to the same test; the lowest being ten per cent. below, the highest over

* Spirits, from grain.....	3d proof, 48 cents.
“ “ “	4th “ 52 “
“ “ “	5th “ 60 “
“ “ “	above 5th “ 75 “
Spirits, from material other than grain.....	1st and 2d proof, 38 “
“ “ “ “ “ “	3d “ 42 “
“ “ “ “ “ “	4th “ 48 “
“ “ “ “ “ “	5th “ 57 “
“ “ “ “ “ “	above 5th “ 75 “

(Statutes at Large, vol. iii., chap. cvii.)

forty per cent. above proof, as determined by a particular hydrometer. Ale, porter, and beer, in bottles, paid fifteen cents; in casks ten cents per gallon. The duties on wines, specially named, varied between \$1.00 and 40 cents per gallon, according to the quality of the article; all other wines imported in casks were taxed 25 cents per gallon.

The period, brief though it was, during which the excise law remained in force would in every way be excellently suited for a test of the effects of internal restrictions upon the manufacture of the articles in question; all the more suited, in fact, because, in consequence of double import duties, of the Embargo and Non-importation Acts, and, after their repeal, of the unsafety of ocean traffic—the domestic manufacturers for a time had an unobstructed field of operation. Unfortunately, however, neither the reports of the Treasury Department nor the census of 1820, afford anything like adequate material for a comprehensive comparison. To begin with, it cannot be ascertained, save by an approximation, based on a few vague and unreliable factors, what quantity of spirits was produced in the country; although it is to be presumed that when the importation of the article had dwindled from nearly five millions in 1812, to half of one million gallons in 1814, the growth of domestic distillation must have been materially enhanced. There is no way of ascertaining the proportions of this growth. It is reasonable, furthermore, to assume that, when the restraints upon importation were removed, the internal taxes operated restrictively upon domestic production; but here again the revenue returns of the Treasury Department are very unsatisfactory as to these and the preceding years. Taking, however, the figures whose correctness can be relied on, it will be found that the higher excise duties imposed by the later law considerably diminished the production of ardent spirits. The estimate submitted by Dallas was premised on an annual production of 24,000,000 gal-

lons of such spirits as were contemplated to be taxed according to quantity—an estimate which, taking the census of 1810 as a standard, evidently fell below the actual figure. When the income from internal duties was highest, it exhibited but a little over 10,000,000 gallons as the quantity of such spirits distilled during the year. The following exhibit bears out this statement:

1815.

On licenses for stills and boilers employed on

Domestic materials.....\$750,508

Foreign materials..... 91,616

842,119

On spirits distilled from domestic material

At 20 cents per gallon.....\$1,305,160

At 25 " " 742,398

On spirits distilled from foreign materials

At 20 cents per gallon.....159,229

2,206,787

\$3,048,906

1816.

On licenses for stills and boilers employed on

Domestic materials,\$824,448

Foreign materials..... 123,990

\$948,434

On spirits distilled from domestic materials,

At 20 cents per gallon.....\$782,644

At 25 " " 262,649

On spirits distilled from foreign materials

At 20 cents per gallon..... 59,085

\$1,054,328

\$2,002,762

The quantity of spirits for which taxes were paid on the capacity of stills cannot be correctly stated ; it was estimated, however, at 4,000,000 gallons.*

Making allowance for the unpopularity of excises, the consequent proneness of distillers to evade the taxes, the derogatory influence of the anti-war party upon all Administration measures, the comparative novelty of the revenue system and the imperfect mode of collection growing out of this and many other untoward circumstances—it must nevertheless be inferred from the foregoing exhibits, that the production of domestic spirits was considerably diminished by reason of the excise law. From all available official documents it becomes manifest that the difference between Dallas' estimate, and the amounts of taxes paid in 1815 and 1816 (when imports had risen again to 4,030,470 and 6,910,807 gallons, respectively) is due to the working of the law imposing internal duties. Nowhere is there to be found any indication of an open opposition, or of evasions, on a grand scale, of the excise law ; had there been either, the official reports on the subject of internal taxes would surely have treated of them in detail and at length. The absence of such indications, coupled with various experiences—between which and the present observations there exist some points of analogy—leads to the presumption, that, now as before, the excise duties had precisely that restrictive effect which was universally predicted for them in Hamilton's days, and which the period from 1791 to 1801, compared with 1810, showed them to have had. If no figures could be produced at all for the periods under consideration, the conclusion would nevertheless be self-evident that the consumption of the article must have diminished in proportion to the increase of its cost, provided that the laws occasioning the rise of prices were, on the whole, faithfully executed and obeyed, as seems to have been the case from 1813 to 1818.

* Am. State Papers ; Finance, vol. VI., p. 87.

Had a dispassionate treatment of the question, unhampered by prejudices on the one hand, and Protectionist proclivities on the other, been possible, the proposition of Dallas, to retain permanently part of the internal revenues, would surely have been adopted, at least so far as distilled spirits were concerned. As it was, the logical consequences of the idea of protection, operating as auxiliaries to the repugnance against excises, contributed in no small degree to the intensifying of those drinking habits, against which the efforts of true temperance advocates have from the beginning been directed. Lest misapprehensions arise as to the purport of this averment, the next chapter will be devoted to a brief exposition of the interrelations subsisting between the cause of temperance on the one hand, and Protection, combined with the aversion to internal taxes, on the other.

CHAPTER VII.

THE RELATION WHICH THE REPUGNANCE TO EXCISES AND THE PROTECTIVE IDEA BORE TO THE QUESTION OF TEMPERANCE.—WHAT THE PROTECTION OF SPIRITS WAS INTENDED TO ACCOMPLISH FOR AGRICULTURE.—THE WISDOM OF PROTECTING SPIRITS, AND THE DESIRABILITY OF PREVENTING THEIR EXCESSIVE CONSUMPTION.—WHY EXCISES WERE NOT PERMANENTLY APPLIED TO ACCOMPLISH THE LATTER.—IF IT BE PROPER TO USE THE TAXING POWER IN ONE FORM IN ORDER TO CREATE AND EXTEND MANUFACTURES, IT OUGHT TO BE PROPER TO USE IT IN ANOTHER FORM FOR RESTRICTING THOSE INDUSTRIES WHICH MILITATE AGAINST SUCH ECONOMIC POLICY.—REASONS FOR ASSUMING THAT UNDER CERTAIN CIRCUMSTANCES A PERMANENT EXCISE ON SPIRITS WOULD HAVE BEEN FEASIBLE.—RESULTS OF ABSENCE OF INTERNAL TAXES.—EXCESSIVE DRINKING HABITS OF THE RURAL POPULATION AND CONSEQUENT REACTION, LEADING TO THE OPPOSITE EXTREME.

No attempt will be made to enquire into the expediency of Protection or of its opposite. Facts must be taken as they present themselves, and for the present purposes it is quite sufficient to know that the majority of statesmen of the intellectual caliber of Hamilton, of Monroe, of Dallas and others, familiar with the resources and wants of the country, the condition, ability and requirements of labor and capital—coincided in the opinion, that to foster and further the nascent manufactories would ultimately redound to the advantage of agriculture and commerce, and thereby enhance the welfare and prosperity of the entire Union. This conviction gave rise to the protective tariffs reviewed in the preceding chapters—a com-

viction which the authority of so eminent a Free Trader as John Stuart Mill seems to sustain conditionally, inasmuch as this economist admitted that in young countries, and under certain circumstances and environments, Protection might be more expedient than any other economic policy. In examining the arguments produced in favor of Protection, it will appear that there is nothing so patent to the least acute perception than the theory, that if manufactures were to be protected at all, none deserved more consideration than those which for their raw materials depended upon the products of domestic husbandry. Applying this argument to grain and fruit it seemed perfectly consistent to tax foreign spirits to such an extent as to afford to the domestic manufacture a decided preponderance of competitive advantages over the foreign product. But what valid reasons were there why the article so protected should not, by the agency of an internal tax—much lower, of course, than the import duty—be restricted within reasonable bounds? It has been seen that in Congress but *one* opinion prevailed as to the desirability—under all conceivable aspects—of diminishing the consumption of ardent spirits, and that all legislators were in accord, either in their zealous advocacy, or their unqualified approval of the only measure which popular sentiment appeared to permit them to apply against the evil effects of excessive drinking habits, namely, the protection and encouragement of breweries. Under the circumstances existing at the time it must have been foreseen, that this measure could at first only have the effect of a feeble palliative; that it required long time and great care to make it answer its purpose; that above all things, it required the very reverse of that policy which tended to cheapen ardent spirits in proportion as it furnished inducements for the production of the raw materials used in their manufacture. To apply this means to such an end, when a perfectly legitimate and effective agency was at hand, may be likened to the act of the drowning man, who grasps at

a straw, while a boat, offering the surest means of rescue, is within his reach. Internal taxes would certainly have accomplished what every man in Congress wished to see realized. Why were they not applied? The repugnance to excises is mentioned as the principal reason; yet whenever the productiveness of the import duties failed to correspond with the demands upon the treasury, an excise on spirits was at once resorted to without any hesitation, and long before internal duties were imposed upon any other article; and when, with multiplying exigencies, the latter became necessary, they were invariably accompanied, if not preceded, by an increase of existing internal taxes on spirits; thus showing that, on account of their general consumption, no less than by reason of the results of their excessive use, these articles were regarded as the first and fittest objects of extraordinary tax burdens. Public exigencies, then, have always proved stronger than the aversion to internal taxes—an aversion which, by the way, had lost much of its power after the suppression of the first attempt to resist such taxation. It must be clear that, had not the protective policy been carried to such an extent as effectually to predominate over all other considerations, the internal taxation of spirits would have been accepted as a matter of fiscal necessity at first, as a matter of course in the end.

The repugnance to excises was of English origin, as we have seen; to make its prevalence in our country appear reasonable, one would have to assume that its causes were the same in America as in England. But such an assumption would have no foundation in fact. Consulting Blackstone's Commentaries *—an authority which our legislators invariably invoked when they inveighed against excises—it will be found that the eminent jurist based two of his principal objections to this mode of tax-

* Blackstone's Commentaries on the Laws of England; Vol. I, p. 817; American reprint, Chicago, 1871.

ation on the fact, that in order to prevent fraud, it was necessary (in England) "to give the officers a power of entering and searching the houses of such as deal in excisable commodities at any hour of the day, and, in many cases, of the night likewise," and upon the further fact, that the proceedings in case of transgressions were so summary and sudden, "that a man may be convicted in two days' time in the penalty of many thousand pounds by two commissioners, to the total exclusion of the trial by jury and disregard of the common law." The reader need but be reminded of Hamilton's masterly exposition of the American excise system to be convinced, that in these two points there was a wide disparity between English and American methods.

The English excises were first laid upon the venders of beer, ale, cider and perry—spirits were not then (1648) generally used—and in all probability they would not have caused much discontent, if they had been confined to these articles, at moderate rates. But that was not the case. Already at the beginning of the last century we find as to the single article of fermented liquor a triple tax, each at a very high rate, viz: an excise on malt, an excise on hops, and an excise on malt liquors; and the latter tax was all the more obnoxious as it was levied upon *the beer brewed by private families for their own use*, thus exposing the private dwelling of nearly every well-to-do English citizen to that vexatious scrutiny, which Blackstone condemned and which Hamilton successfully avoided. No wonder, under such circumstances, that the very name of excises became obnoxious in England! Such excessive taxation could not but destroy any industry upon which it was imposed, while a moderate tax could in no manner have injured it. In fact, in our time and country the same industry has been seen to attain an almost marvelous growth under the operation of a moderate excise, aided by high taxes on spirits. In addition to the exorbitant rates of taxes, there was the further objection to English excises, that in the course of

time they were extended to a long list of occupations and articles, and that among the latter were absolute necessities of life, as meat for example. No system like this was ever contemplated here, save in time of war. An excise upon spirits was all that was proposed by those who understood the necessity, morally and economically, of restricting the use of the article.

That it is wise to refrain from the application of internal taxation so long as import duties suffice to cover the necessary expenditures of government, can not successfully be disputed. But when the tariff was made to reach beyond the mere matter of revenue, when it was purposely so constituted as to influence the energies of the people and the resources of the country, so arranged as to create and extend manufactures, to guide labor and capital into new, and divert them from old channels; when, in short, it was used as a direct regulator of one of the three wealth-producing agencies—and all this on the ground that the general welfare, material and political, exacted such a course—it is difficult to see why the same taxing power, exerted in another form, could not on the same ground (greatly fortified by moral considerations) be made to restrict a given manufacture. At the time under review it was universally thought that distilleries of grain, if kept within certain bounds, operated more beneficially upon trade balances than any other manufacture; for this reason it deserved to be protected. When given unlimited scope, it proved, as Hamilton expresses it, a source of impoverishment and the cause of great demoralization; and for these reasons it should have been restricted by internal taxation. Protected against competition from without, and reasonably restricted from within, it would not only have answered the fiscal and economic purposes, but also the moral objects which all agreed in desiring to see attained.

Although, fully in harmony with the usual character of

popular errors, the prejudices against excises in general were as tenacious as they could easily be shown to be untenable, yet they were evidently less strong against the taxing of ardent spirits than against the burdening of any other article, so that, as far as spirits were concerned, an exception from the ordinary rule of non-imposition of internal taxes could have been effected, without any greater risk than that which aspiring politicians might have feared from their moving counter to a popular prejudice, which they themselves had artfully helped to stimulate. To claim that such a restraint upon the consumption of ardent spirits would have been wise and beneficial is not saying anything against the proper use of intoxicants; indeed, nothing could be further from the truth than such an interpretation. In spite of adverse criticism the writer still adheres to the opinion, expressed on a former occasion, that in some climes ardent spirits may be a necessity, and that the people using them there may, in every way, be the better for it. He holds to this view just as firmly as to the opinion, that the moderate use of milder stimulants, with their exhilarating, energy-inspiring effect on the brain, their tendency to render man communicative and companionable, to loosen the tongue and quicken thought—proved a blessing to many civilized nations;*

* This opinion is expressed by the writer in a statistical sketch on "Real and Imaginary Effects of Intemperance." Many newspapers, among them that most eminent representative of high-toned journalism, the *New York Times*, who generally approved of the expositions and conclusions of the essay, unqualifiedly condemned the opinion in question. Since then the London *Spectator* published an article (Sept. 24, 1884,) on the "Morality of Diet," in which, much in the spirit of the authorities quoted in the above-named sketch, some of the fallacies of teetotalers are effectively exposed. The following pertinent sentences are taken from this article: "As a drunken man does immoral acts, it is natural that a practice which, if carried to excess, makes men drunk, should be held *in se* unholy, and total abstinence be raised by the exaggeration characteristic of recoil into a moral obligation. Nevertheless the effect of excess in wine is no more a reason against wine in moderation, than the effect

that wine and beer have, in fact, been civilizers of races. It is the excess against which all arguments are directed, not the proper use. Hamilton has shown clearly enough, what economic advantages he looked for from the consumption of ardent spirits, and we know that the author of the "*Digest of Manufactures*" saw in distillation a safeguard against famines; but it has also been demonstrated that an excess of distillation tended to impoverishment and fairly invited the danger of scarcity of food. The Pennsylvania law of 1779, entirely prohibiting the distilling of grain, owed its enactment to the apprehension, that the general custom of transforming that article into whiskey would ultimately so reduce the quantity of cereals, available for milling purposes, as to produce a famine.

There seemed all the more reason for preventing an excess of production by internal taxes, as it was held by

of gluttony—which is very demoralizing, though our northern world has forgotten the facts, and hardly understands the Biblical denunciations of the vice—is a reason against taking a daily dinner, and in raising abstinence into morality teetotallers are conceited. Wine is not wicked *in se*, and the theories they raise on that basis are fallacies contradicted by a glance at the facts of the world. *So far from the use of alcohol destroying the races that use it, the wine-bibbing races are the conquering races, and civilisation owes everything, not to the Hindoo, who abstains, like Sir Wm. Lawson, or to the Mussulman, who abstains like a convict in prison, but to the wine-tasting Greek, and the hard-drinking Roman, and the beer-swilling varieties of the Teutonic race. The Hebrew who drinks, and always has drunk from Noah downward, has done five times as much for the world as his cousin the Arab, who, even in Africa, is the most rigid abstainer. The single Hindoo sect which has not renounced alcohol, but demands regular rations of rum—the Sikh—is the one which, were we away from India, would conquer and probably reinvigorate all the others. Nor is the teetotaller's dogma as to the moral effect of total abstinence, especially in regard to violent crime, one whit more irrefutable. The Turks who committed the atrocities of Batouk were hereditary total abstainers; the authors of the massacres of Cawnpore had never seen liquor; and the Bedouin who will kill you for your buttons, would kill you also, if he could, for drinking Bassa."*

the ablest financiers of the time, that a more reliable, productive, safe and legitimate source of revenue could not be conceived than a tax upon a consumable article, which, though not a necessary of life, was almost as common a part of diet as bread or meat, and yet deserved to be classed as a luxury more than anything else, especially because its excessive consumption was usually accompanied by many social evils. In Bavaria, where people would as soon think of living without bread as without beer, excises on the latter article have always been the most popular mode of obtaining revenue; and great public works, like the *Heller* Bridge—which took its name from the fact that to pay for it a tax of one *heller* ($\frac{1}{16}$ cent) was levied on each gallon of beer—were often accomplished exclusively by this means. Hamilton, it will be recollected, strongly urged the substitution of malt beverages for ardent liquors, and he shared the opinion of the majority of law-makers, that malt liquors would answer a great moral purpose; yet he distinctly stated that, in advocating the encouragement and protection of breweries, he had in view, among other things, the ulterior object of making these manufactories a lucrative source of revenue, to be resorted to whenever public exigencies required it. With the prophetic eye of genius he no doubt foresaw what his policy would lead to, and contemplated with satisfaction the favorable prospect offered to his country. The experience of the present generation has verified his hopes and predictions, and has at the same time furnished ample evidence that, avoiding the cause of the prejudice against excises—a thing which even in Hamilton's time had outlived its reality,—the Government would encounter no difficulty in levying and collecting internal taxes on the commodities in question.

If it had not been for the ulterior object of protection, what sound reason would there have been in a policy which taxed (by imposts) articles of absolute necessity (as salt for instance), while

it left completely tax-free a quasi luxury, the *excessive* indulgence of which was pregnant with evil? The very article which in nearly all countries bears the heaviest burden of taxation, was here completely exempt from any duties, and it is surely an unwarranted imputation to claim that the American people would not soon have comprehended the inexpediency of this immunity. What was practicable in 1862, and is still a reality in the "piping times of peace," of which the year 1885 forms a part, would certainly have been feasible from 1820 to the first named year, had it not been for the singular interrelation subsisting between a more or less popular prejudice and party-politics on the one hand, and the protective idea on the other. Against a strong current of popular opinion a law could not have prevailed; but it is a fact—and that is precisely what was sought to be demonstrated—that unaided by party considerations and the fiscal outcome of Protection, popular opinion, though very powerful as to internal taxes in general, would not have proved strong enough to forbid the levying of an excise on spirits exclusively. The professional distillers at all times cheerfully submitted to the law. As to the consumers, it may safely be asserted, that, as they did not find fault with the tariff, which in fact made *them* pay the duties on foreign spirits, they would not have grumbled at the slight increase of price which an excise on domestic spirits would have occasioned. The opposition was almost entirely confined to distilling farmers; but had not their cause been made a party issue, they would undoubtedly in a very short time have learned that their own interests demanded a moderate restraint upon distillation, and, accordingly, rather than pay the tax, many of them would have discontinued distilling, as great numbers did during the operation of the first excise laws. As it was, they were educated to the belief that to advocate unrestricted country distilling was equivalent to displaying a zealous solicitude for the security of individual rights, and

that the political party who did so deserved their support. Under the dominion of this political creed, country distilling became the fountain-head of that degree of intemperance which, during four or five decades preceding the Southern Rebellion, called into existence a great variety of associations (good and bad, excellent and execrable), striving for the suppression of excessive indulgence.

Incidentally it is worthy of note, that the rural districts, which, according to all authorities, were then the homes of drunkenness, the scenes of all the evils of intemperance, are to-day the strongholds of that zealous advocacy of total abstinence, which scoffs at personal liberty, sneers at the rights of man, contemptuously scouts statistical arguments, and out-laughs all claims based on experience and sober reasoning. In this passage from one extreme to the other, one will without difficulty recognize the characteristics of that reaction which invariably follows undue tension; in history one finds its analogue in many shapes—in the relapse from unbridled licentiousness to Puritan ascetism; from extreme ungodliness to mysticism or pietism; from the abject servility, that cringed before absurd dogmas and empty forms, to that fanatical love of liberty which found its end in the sea of French blood, shed in its name. Fortunately, all such reactions are of a transitory character, passing away more or less rapidly, to give room to a normal state of things, holding the middle-ground between the two extremes.

CHAPTER VIII.

THE ERA OF HIGH PROTECTIVE TARIFFS.—PARTY DIVISION ON THE SUBJECT.—ATTITUDE OF CALHOUN BEFORE AND AFTER THE MISSOURI COMPROMISE.—TARIFF OF 1824.—TEMPERANCE POLICY IN REGARD TO USE OF WINE.—CONGRESS GRANTS LAND TO FRENCH VINTERS.—DUTIES ON WINES REDUCED FOR MORAL REASONS.—PROTECTIONIST EFFORTS IN FAVOR OF WHISKEY.—PENNSYLVANIA FARMERS ASK FOR PROHIBITION OF IMPORTATION OF SPIRITS.—FUTILE EFFORTS TO RE-INTRODUCE AN EXCISE ON SPIRITS.—THE STRUGGLE FOR THE PROTECTION OF WHISKEY IN 1828.—MIXED STATE OF AFFAIRS: "YANKEE" RUM OSTRACISED; WHISKEY DESCRIBED AS PALATABLE AND FASHIONABLE.—WRANGLE OVER THE DUTY ON MOLASSES.—YANKEEDOM AND ITS ALLEGED FRAUDS ARRAIGNED.—INTERESTING DEBATE ON THE EXPEDIENCY OF CREATING NEW MARKETS FOR WHISKEY.—TARIFF OF 1828.—INCREASE OF IMPOSTS ON SPIRITS AND MOLASSES.—REVOCATION OF UNJUST CLAUSE IN REGARD TO LATTER ARTICLE IN 1830.—REVISION OF DUTIES ON WINES.—EXTENSIVE FRAUDS UPON THE GOVERNMENT BY IMPORTERS OF WINES.—THE TARIFF ACTS OF 1830 AND 1832.—NULLIFICATION OF TARIFF.—CALHOUN AND JACKSON.—COMPROMISE ACT OF 1833.—REDUCTION OF DUTIES.—FINANCIAL CRISIS UNDER VAN BUREN'S ADMINISTRATION.—PRECARIOUS CONDITION OF TREASURY UNDER TYLER'S ADMINISTRATION.—ANOTHER CONFLICT AND COMPROMISE.—INCREASE OF DUTIES BY TARIFF ACT OF 1842.—FILLMORE ON EXCISES.—FURTHER CHANGES OF THE LAWS.—CONCLUSIONS AS TO SPIRIT AND EFFECT OF LAWS.

After the abolition of the second excise system the policy pursued in relation to the liquor question virtually remained unchanged up to 1857. Although there were changes in the rates of import duties—mostly of an upward tendency—there was no deviation from the old economic principle. It is for this reason that the laws enacted during the period named, which

includes what may be styled the era of high protective tariffs, may readily be reviewed in a single chapter. There are, however, other reasons for this. From the year 1820, when the Senate rejected a distinctively protective tariff, which had been adopted by the House of Representatives, the sectional feeling developed during the far-reaching struggle over the question of admitting Missouri into the Union, determined to a great extent not only the agitation in favor of, and the opposition to the protective system, but also the complexion of old and the formation of new political parties. The changed condition of affairs is best characterized in a concrete case, namely, the attitude of the master-mind of the new opposition. Before 1820 we find Calhoun working hand in hand with Clay, the advocate of Protection pure and simple. Although he did not ignore the fact, that the population of the section of country represented by him had no direct interest in a protective tariff, being chiefly, almost exclusively, engaged in agriculture, he nevertheless held the opinion that not only the prosperity, but also the security of the country depended upon the encouragement and protection of manufactures. In his speech of the 4th of April, 1816, siding with Clay in advocating high duties, he said, that "when our manufactures had grown to a certain perfection, as soon they would be under the fostering care of the Government, the farmer would find a ready market for his surplus produce, and a certain and cheap supply of all his wants." With this object in view, and an eye to the interests of his particular locality, he especially commended cotton factories to the consideration of Congress. In reference to the security of the country he held the view, explained in the first chapter of this book, that in order to be able to take care of itself, a country must be so placed as not to have to depend upon another for the means of its defence.

After the Missouri Compromise Calhoun became the

leader of that determined opposition to the protective system, which culminated in the doctrine of nullification, and subsequently, for a great number of years, shaped the course of political events. The conflict now more and more assumed a sectional character; the doctrine of states-rights; the question of the authority of the National Government to levy taxes for purposes other than revenue, and the question of free labor and slave labor, as affected by a protective tariff, entered into the contest. Old Parties became disrupted, and new parties were organized.* In fact, from this period the history of the so-called American system is so closely inter-linked with the history of the Union, that it is almost impossible to write of the former, without writing the whole of the latter. Closely to follow the development of the question from phase to phase would lead us much further away from the subject under consideration, than the objects in view would under any circumstances justify. The present inquiry must, therefore, necessarily be confined to measures directly relating to the liquor traffic; while everything else pertaining to the tariff can only receive passing notice.

The tariff of 1824, a protective measure in the full sense of the term, did not affect distilled spirits, the decidedly protective duties imposed upon this article by the Act of 1816 remaining unchanged, and, excepting the claim of the Louisiana sugar planters, that their product should be protected against foreign competition, nothing new came to the surface during the discussions on any of the bills offered from 1816 to 1825. The duties on ale, porter and beer were, however, increased from fifteen to twenty cents, when imported in bottles, and from ten to fifteen cents, when imported in casks. The duty on black quart bottles was raised to \$2 per gross. The reduction

* The origin of the Whig or National Republican and the Democratic parties date back to this period.

of duties on wines, effected by the Act of March 13, 1819, has already been mentioned; but it remains to be said, that this reduction resulted from a desire to further temperance by cheapening wines and thereby inviting an increase in their consumption. Domestic wine-culture progressed so slowly, that there was no telling when the domestic production would cover any part of the market demand. And this very fact, namely, the paucity of the domestic produce, no doubt facilitated the reduction of duties, for, in consequence of it, there was not enough of a basis for an opposition on the favorite plan of local interests. It is true, Foot, from Connecticut, protested against a lowering of the duties, because, as he asserted, the first reduction after the war had already destroyed a growing industry in his State, and because on moral principles he desired to see the production of wines cherished in the United States. His protest availed nothing, because the same moral consideration was also urged in favor of a measure, which tended to enable the people to substitute cheap wines for ardent spirits. That the desirability of this change was generally admitted, appears from the enactment of a law, in 1817, authorizing the sale of four contiguous townships in Mississippi to emigrants from France, on the express condition that these French purchasers, who had associated together to form cis-Atlantic settlements, cultivate *grape-vine* and olives.

During the period from 1824 to 1828, the advocates of protection worked incessantly for extending and perfecting their system, and among the many objects of domestic manufactures recommended by them for additional protection against foreign competition, distilled spirits occupied a prominent place. The incentive to this effort again emanated from rural districts. Pennsylvania farmers memorialized Congress on the subject, praying that the importation of spirits be prohibited, or the duties thereon so increased, as to amount to a prohibition. The Senate Committee on Agriculture, of which

Findlay was at that time chairman, on the 21st of March, 1826, rendered an exhaustive report on the subject, in which the opinion is expressed that a prohibition in fact, if not in express terms, ought to be effected, as it would be "highly beneficial to a very numerous class of citizens, whose pursuits have claims to the fostering care of the Government." Aware that a bill of this kind could not originate in the Senate, the Committee merely suggested that the revenue deficiency, which a prohibitory import duty on foreign spirits would have occasioned, might be made up by an *internal tax* on the domestic article. Whether the Pennsylvania petitioners would have been very eager to accept the fulfillment of their prayer on this condition, that is to say, at the cost of the detested excise system, seems questionable; but there can be no doubt that had an appreciation of the principle which underlies the senatorial suggestion been generally diffused, the people at large would soon have perceived not only the justice of it in such a case, but also its applicability under the circumstances which form the subject of the preceding chapter. Unfortunately, the matter was never placed before the people in a proper light; the *touch-it-not* policy being still very powerful. Another futile attempt to re-introduce the excise system was made in the same year, the avowed object being to raise money for internal improvements and public education. This attempt—induced by pertinent memorials and petitions—was in the form of a resolution, setting forth that "it was expedient to increase the duty on all imported spirits, and to levy an excise on domestic liquors." A select committee of the House, to whom this resolution was referred, refrained from making any definite recommendations, on the ground that the information, which could be obtained from the Treasury Department as to the working of previous excises, was not sufficient to warrant any final conclusions. As an expression of sentiment and opinion, however, the report is of great value.

"No fairer subject of taxation and revenue," the report reads, "can be presented to the Government than ardent spirits, whether foreign or domestic, and the committee would desire to see a larger portion of our revenues derived from this source, and that some of the immediate articles of prime necessity to the comfort of the poor and of the middle classes of society might be free of duty. Foreign liquors are used to a considerable extent as articles of luxury. Domestic liquors are made from various materials, and in every section of the country. They are used to an extent which many believe to be incompatible with the public good, and perhaps the consumption is increasing beyond the ratio of population. The consequences are deeply felt, and are greatly deplored by every friend of man. *The question is not whether, by sumptuary laws, we will prohibit intoxication; but whether intoxicating liquor is a fair and lawful object of taxation,* from which the Government may draw its revenues to pay the public debt, to distribute widely the blessings of free schools, and improve the internal condition of our country. And if by the imposition of such tax, the consumption of ardent spirits is diminished, will not the public morals, the comfort and happiness of the community, the wealth and the character of the nation be advanced?" Here we have the essence of the arguments used by Hamilton, a re-enunciation of that principle, which, when put to the touch-stone of experience, demonstrated the easy possibility of serving the interests of domestic husbandry, of satisfying the fiscal requirements of the Government, and at the same time advancing true temperance in the only way compatible with the spirit of our institutions and the welfare of the country. But precious as were these words, they were wasted, like words hastily traced on the tide-washed sands of the seashore, and as hastily effaced by the in-rolling waves—the waves of selfishness of American agriculturists.

While no attention was paid to such rational suggestions as we have just quoted, the demand for increased protection grew stronger from day to day, and with its growth the geographical line of division between Protectionist and Free Trader became more and more marked, although Massachusetts, Maine and New Hampshire in many respects stood, as yet, on the same ground occupied by the Southern States. When in 1828, under the administration of John Quincy Adams, another change of the tariff, favoring protection, was proposed in Congress, the discussions frequently disclosed the development of the idea, that in the struggle for still higher duties the interests of the Southern States were to be sacrificed to the advantage of the Northern and Eastern States. In respect to ardent liquors, however, the state of things was slightly mixed. While the proposed increase of duties on these articles themselves did not encounter much opposition, the proposition to double the impost on molasses, then taxed at five cents per gallon, furnished material for a series of extremely ludicrous altercations. The wishes of the sugar planters of Louisiana clashed with the interests of the distillers of New England rum; but the fisheries and navigation of the East, which as has been shown before, depended in part upon the latter manufacture, were supposed to be arrayed not only against the agricultural interests of Louisiana, but also against those of the grain-growing States; and it is this view which occasioned some very entertaining bits of parliamentary fencing. The House Committee on Manufacture, whose report formed the basis of argument, had broken a lance in favor of whiskey, claiming that the liquor distilled from grain had become very "palatable and fashionable," and deserved to be given preference over New England rum, because it created a demand for domestic cereals and thereby benefited domestic agriculture. On the correct supposition that abundant grain would be produced in the Union to furnish a full supply of ardent spirits,

if the demand was not otherwise supplied, the committee regarded the distillation of rum as an undue interference with the interests of domestic grain-growers, and for this reason recommended higher duties both on foreign spirits and on molasses. This was but a variation on an old tune; but the times had changed, the scenes were slightly shifted, the rôles partly exchanged. The very State, which in 1791 was represented as consuming ten times as much liquor as Connecticut, and as considering the article a necessary of life—North Carolina—now entered the lists in behalf of temperance. One of her representatives in Congress, Bryan, took up the cause in these words:

"It seems, then, sir, that we are in the first place to create, by legislation, a demand for whiskey, and, by excluding foreign spirits and molasses, to compel its use. Such a proposition seems to me monstrous, both in a political and moral view. The materials and industry of numerous classes of our citizens, by the operation of the West India trade, are exchanged for many millions of gallons of molasses, which is largely used as an article of diet by all classes, and especially by the poor, and is undoubtedly very nutritious; besides, it yields a large revenue to the Government. I would ask, sir, why the fruits of their industry and capital is less worthy of protection because it appears in the shape of molasses, than if it appeared in the more 'fashionable' garb of whiskey? It is also *a strong recommendation to molasses that it can be taxed by an impost duty; whiskey can only be taxed by an excise*, and that, it seems, is a hazardous experiment. So far from this Government attempting to create a demand for whiskey, I had hoped that the proposition from the Committee on Commerce* to reduce the duty on wines, would have met favorable reception; it is strongly recommended by its tendency to substitute the use of pure and wholesome liquors for that of obnoxious ardent spirits, thus promoting eminently the moral and physical health of the nation." †

* Am. State Paper, Finance, Vol. V., page 775.

† On this occasion Bryan also vindicated his constituents' taste, by jocosely protesting against the assertion that whiskey had become fashionable and palatable. His constituents, he said, had not yet become so fashionable as to discard Madeira (when they could get it) for whiskey.

Although evidently not meant to be such, this speech was virtually one in favor of the rum distilleries of the New England States, and on that account could not fail to bring upon Bryan the blame of his Southern colleagues. Carson, also from North Carolina, who abhorred the entire American system, thought that the duty on molasses should be as high as possible for the reason, among others, that "it is the material from which is distilled a noxious spirit commonly called in North Carolina *Yankee rum*." He asserted that this "poisonous stuff" had inundated the seaboard of his State and found its way into as many parts of the interior as the *wooden clocks* and *wooden nutmegs* of the same origin. The conclusion of his harangue is too precious a bit of oratory to be omitted. Here it is:

"My colleague (Bryan) has asked, whether we should sit here legislating for the protection of a noxious liquor, which tends to degradation, meaning whiskey. Now, Mr. Chairman, I appeal to the candid decision of my colleague, which is the most noxious, poisonous, and degrading in its nature, good rye whiskey or mean Yankee rum? I will not do my colleague the injustice to say, sir, that he is in favor of the American system; but if he should be, what is there that demands, in a more eminent degree, his protecting care than the health of his constituents? Nothing, sir. And to that end I call upon him, in sober earnestness, to banish Yankee rum and to substitute good whiskey."

This opinion should not be construed as having been uttered in a sense of jocular exaggeration, for in the Senate it was given expression by no less a personage than Benton, who claimed "that whiskey was the healthiest liquor that was drunk, as men were known who had been drunk upon it for forty or fifty years, while rum finished its victims in eight or ten"—an averment in which Chandler, from Maine, inspired, it would seem, by that Christian charity which to this day holds sway in his State, welcomed as an additional reason for voting against the duty, confessing himself in favor of that liquor, which would soonest dispatch the drunkard.

A noteworthy argument in favor of doubling the duty on molasses was, that the material served as a medium of fraud upon the Government, inasmuch as by mixing four gallons of whiskey with one gallon of molasses, and thus producing five gallons of New England rum, the exporter of that article, paying five cents duty on his molasses, and receiving twenty cents drawback on his rum, made a clear gain of fifteen cents on the five gallons. The inferential evidence adduced to substantiate this charge was not very strong, yet the argument was eagerly seized upon as being in harmony with the intentions of the majority of the law-makers. These intentions, it has been seen, appealed to the selfishness of the grain-growers and of the sugar-planters, while they militated disastrously against the New England distillers. The current of opinion in favor of increasing the duty on molasses from five to ten cents proved too strong for any available resistance, but it is difficult to determine which one of the factors forming this opinion predominated: whether the irrepressible demands of the grain-growers, or the claims of the sugar-planters, or the Bentonian view of the superiority of whiskey over rum generally, or the abhorrence, tinged with sectionalism, of *Yankee* rum in particular, or the fear of fraud upon the Government, or the general tendency of the time, to promiscuously tax everything and all things coming from abroad, or, finally, the disposition, said to have prevailed, to insure the defeat of the whole bill by making it totally inequitable. But whichever may have had a preponderance, they all—excepting the last factor—diverged toward *one* point, which was, that whatever tended to augment the production of ardent spirits from domestic materials, tended also to enhance the importance and advantage of domestic agriculture, and, therefore, must needs be advocated by every lover of his country. Wright (New York)* put it in this way: “All the whiskey the country

* Benton's Debates of Congress, Vol. X., p. 90.

can make and market, furnishes a market for just so much of the grain of our farmers, which now will not sell, and must remain upon their hands." In all the discussions upon this subject but two allusions were made to excises; namely, the one already quoted characterizing the system, as a hazardous experiment; the other (by Condict, of New Jersey), favoring an excise on domestic spirits as a perfectly proper tax. No further notice was taken of this important side of the question. The protective idea ultimately triumphed in the case of molasses and foreign spirits, as it did in every other instance of this historically important struggle—a struggle in which all the objections to the conversion of the taxing power into a protective lever were most forcibly urged upon the consideration of the majority.

By the law which was now enacted,* the duty on molasses was fixed at ten cents per gallon, and, as if to aggravate the hardship imposed upon the New England distillers, no drawback was allowed on the exportation of spirits manufactured from molasses, the ostensible reason for this being the charges of fraud brought against the exporters of that article. The real reason may have been, as was said, an intention of killing the whole bill through the injustice of this clause. The duties on all foreign spirits were increased by fifteen cents on each gallon, raising the aggregate amount of duties, in each case, to the following figures:

From grain, 1st proof, 57 cents per gallon.

"	"	2d	"	60	"	"	"
"	"	3d	"	63	"	"	"
"	"	4th	"	67	"	"	"
"	"	5th	"	75	"	"	"

" " above 5th proof, 90 cents per gallon.

From material other than grain, 1st and 2d proofs, 58 cents per gallon.

"	"	"	"	3d	"	57	"	"
"	"	"	"	4th	"	63	"	"
"	"	"	"	5th	"	73	"	"
"	"	"	"	above 5th proof,		85	"	"

* May 19, 1828. Statutes at Large, Vol. IV., p. 270.

The duty on molasses, amounting to over one hundred per cent. of the value, was said to have been insisted upon by the opponents of the protective system for the purpose of defeating the entire bill. Adverting to this circumstance, Ingersoll, in the first session of the twenty-second Congress (1830), moved to reduce this duty by one half, and to allow a drawback of four cents upon every gallon of rum exported from the United States—a proposition which was at once acted upon.*

In accordance with the report of the House Committee on Commerce a revision of the duties on wines was effected during the same session. The rates existing at the time—being 15 cents on wines not enumerated † and varying from \$1.00 to 40 cents per gallon on wines specified by the names of the places from which they were exported—were a standing temptation to dealers in those articles to first import costly wines to ports or places not enumerated in the American tariff, and thence import them into the Union, in which case the articles were treated as belonging to the category of “other wines,” and admitted at the lowest rate of impost. Thus, for example, Sherry shipped to the United States from Cadiz would have to pay sixty cents per gallon, but transported to Gibraltar or Marseilles, and thence shipped to this country, it had to pay but fifteen cents, if imported in casks; thirty cents, if imported in bottles or cases. Wines of Sicily, taxed at fifty cents, had but to be carried to some Mediterranean port outside of the Italian territories named in the tariff, in order to be admitted into the Union at the rate of fifteen cents per gallon. With the shrewdness characteristic of the votaries of Mercury, the traders had spied out the weak points of our tariff, and utilized them for a perfect system of evasions, alike easy of execution

* Statutes at Large, Vol. IV., p. 419.

† Fifteen cents, when imported in casks; thirty cents, when imported in bottles or cases.

and exempt from any and all risks. No doubts seemed to exist as to the extent of this practice; the importation of wines of the better quality, or rather the importation of wines consigned under the names of the more valuable articles decreased rapidly, whereas the importation of the beverages classed as "other wines" increased in a corresponding ratio. The consequences were the almost entire destruction of our commerce with the Western Islands, the Canaries, Portugal and the Atlantic Provinces of Spain, and a transfer of trade to Mediterranean ports. With the former countries our trade was supposed to be more profitable, by reason of an exchange of goods, than with the latter. It was thought that by the lowering of the higher duties on finer wines, and a change in the classification of all, the evils could be remedied, and, accordingly, a law was passed * fixing the duty on wines of France, Germany, Spain and the Mediterranean ports, unless specially enumerated, at fifteen cents per gallon; except red wines of France and Spain, when not imported in bottles, which were taxed only ten cents; on wines of all countries, when imported in bottles and cases, unless specified by name, on wines of Sicily, and on all wines not enumerated, in whatever manner imported, thirty cents, with the addition of the duty on the bottles, if so imported; on Sherry and Madeira fifty cents per gallon, in addition to duty on bottles. This law had no political or parliamentary connection with the high protective tariff adopted a few days before. It stood isolated as a subject of legislation in no way allied to the great economic question, which again, and now more markedly than in 1824, divided Congress into two great groups, each held together by a common bond of local interests, and a feeling of sectionalism.

Already in 1824 South Carolina had taken the lead in endeavoring to bring about concerted action against the

† May 24, 1828, Statutes at Large, Vol. IV. p. 309.

tariff, even to the extreme of open defiance of the authority of the National Government; but the agitation had not yet become uniformly sectional. All the so-called plantation States were, it is true, against protection, and from the debates in Congress the fact stands forth clearly, that to the minds of some of the leaders, nothing seemed more feasible than to make the Southern people believe, that the East and North were profiting by the tariff at the expense of the South. But the lines were not yet rigidly drawn. Some New England States protested against indiscriminate protection quite as loudly as the South, and Webster, surely one of the most eminent representatives of the former states-group, still opposed protection. With the passage of the tariff law of 1828, and the discussions which preceded it, the idea of nullifying the tariff seems to have attained full maturity, and from this time on the sectional character of the strife was sharply defined. The South now "stood together in a solid phalanx," as Randolph expressed himself, and the New England States placed their faith upon protection, which, according to Webster, they now looked upon as the permanent policy of the Government, and hence adjusted their industrial affairs accordingly.

It would be going beyond the limits which the subject of this work necessarily fixes to historical digression, to relate how the beginning of Jackson's administration (1829-1837) ushered in the great struggle between Calhoun and "Old Hickory." It forms one of the most thrilling events of our history—this memorable contest, which, after the adoption, by South Carolina, of the Nullification-Ordinance of November 24th, 1832; after Jackson's proclamation to the effect that the "Union must and shall be preserved;" after all the perilous moves and counter-moves for and against the doctrine of state-rights—finally terminated in the famous Compromise Act of March 2nd, 1833. There is all the less reason for such a digression as, in all the protracted debates on the questions lead-

ing up to the compromise, no allusion was made on either side that would shed additional light on the *status* of the liquor traffic. The tariff acts of May 20th and 29th, 1830, and July 13th and 14th, 1832, which preceded the compromise, did not affect either distilled spirits or fermented liquors, wines excepted. In the midst of the general upward movement of the tariff the duties on the latter articles were again lowered—actually and prospectively. By the act of July 14th, 1832, the red wines of France were taxed at 6 cents per gallon, in casks; white wines, in casks, ten cents per gallon; French wines of all sorts, in bottles, twenty-two cents. From and after March, 1834, all wines whether of France or other countries were to pay half the rates existing at that time.

Under the operation of the Compromise Act of 1833, the maximum rate of duties from and after the 31st of December, 1842, was fixed at 20 per cent. on the value of the article taxed; and the amounts of duties in excess of that rate were gradually reduced in such manner, that one-tenth of this excess was deducted in 1833, another tenth in 1835, 1837 and 1839, respectively: and one-half of the residue in 1841, the other half in 1842. After the latter year all imposts were to be collected in ready money. The period of these biennial reductions of the tariff, embraces two of the most critical epochs in the financial history of the Union. Under Van Buren's administration (1837-1841) occurred two financial crises, which brought the country to the verge of ruin, and left many States absolutely bankrupt. Harrison, on assuming the presidential chair in 1841, found the country and the treasury in a deplorable condition. During the first year of Tyler's administration (1841-45) the revenues fell below the expenses of the Government, while the debt of the Union rapidly increased; yet, under the operation of the Compromise Act, a still further reduction of the income had to be effected. By another compromise in a different direction, consummated towards the close

of the year 1841, the omission of this last reduction of revenue had been rendered next to impossible, without a renewal of the parliamentary combats of 1832-33. This bargain was concluded between the friends of the so-called Distribution Act and the friends of the Bankrupt Act. The former law provided for the distribution of the proceeds from the sale of public lands to the States, making the continuation of such distribution conditional upon the reduction of the tariff in accordance with the law of 1833, inasmuch as it prescribed that the distribution of the land money should cease, whenever the duties on imports exceeded twenty per cent. on the value of the taxed article.

Out of this state of affairs grew the historic conflict between Tyler and Congress, the former having vetoed a bill providing for a provisional tariff, which exceeded the rates predetermined by the Compromise Act, and disregarded the above-cited provisions of the Distribution Act. Neither this nor the subsequent controversy over the general tariff of August 30th, 1842, which signalizes a return to the first love of Protectionists, added anything new to the liquor question; in fact, the increased complications in which the subject of Protection became entangled, scarcely permitted an exhaustive consideration of the details of the tariff. The strife turned on a question of principle; this being decided, it seemed to matter little *how* and to what extent it was acted upon. The only noteworthy circumstance is the fact, that from the inquiries into sources of revenue, to which the Government might safely resort, that of an excise on spirits was from the beginning excluded, and again for no other reason than the odium which a preconceived notion attached to the name of the thing. How very prone even superior politicians were to pay tribute to this antiquated prejudice, appears from the following extract from a speech by Fillmore, of New York:

“The very name of excise is odious in Great Britain, where

it is practised ; and though we find in the Constitution a power to raise revenue by excise, I am surprised to find that the word has not been used in this country. And why is it so ? A duty in the shape of an excise was recommended during the two first years of our Government, but the name was so odious that the Administration that ventured to impose the duty, did not venture to use the name. I find a report by Mr. Hamilton, in which instead of excise, he called it internal revenue. There is a great deal in changing a name."

The opinion that the imposing of excises would be a dangerous experiment seems to have still prevailed to a very great extent, and it was naturally again strengthened by the efforts for a protective tariff. It was contented that the Government needed so much money, that a tariff for revenue only would practically operate as a protective tariff, and this was the sign under which the friends of Protection again conquered.

The new duties imposed on ardent spirits by the act of 1842, were as follows :

On brandy, one dollar per gallon ; on spirits manufactured from grain and other materials, and

Of the first and second proof,	sixty cents per gallon.
" " third proof,	sixty-five cents per gallon.
" " fourth "	seventy cents per gallon.
" " fifth "	seventy-five cents per gallon.
Above " "	ninety cents per gallon.

The duties on ale, beer and porter remained as before, namely, twenty cents per gallon, when imported in bottles, and fifteen cents, when imported in casks. Madeira, Sherry, San Lucar and Canary wines were taxed at sixty cents per gallon; Champagne, forty cents, Port, Burgundy, and all clarets, in bottles, thirty-five cents; the wines of France, Austria, Prussia, Sardinia and Portugal, not enumerated, twenty cents per gallon, when imported in bottles; and red wines in casks, six cents per gallon. Molasses was taxed at $4\frac{1}{2}$ mills per pound;

black quart bottles at \$3.00 per gross. At the above rates the duties on ardent liquors remained until 1846, when an *ad valorem* duty of one hundred per cent. was imposed on them.

In these laws, so far as they relate to intoxicants, there is no essential departure from the spirit sought to be characterized in the preceding chapter. If anything, the disposition to afford protection to domestic agriculture at all hazards, was more sharply defined, more pointedly formulated than ever before. And what seems most significant is the fact that, while, generally speaking, the opposition to protection centered its forces (whether justifiably or not, it is not our province to determine) on the argument, that manufactures were fostered at the expense of agriculture—in the matter of ardent spirits the position is found to be completely reversed. In order that the grain-growers might find a market for their surplus produce, the distilleries of New England, closely interlinked with the most important sources of wealth of those parts, were readily sacrificed, by an exorbitant tax on molasses, notwithstanding the fact, that about five-eighths of the entire quantity of this article was consumed in the raw state, being, in reality, as much a necessary of life, in some of the Eastern States, as any article of diet, excepting bread. The tax of five cents on a gallon of molasses, not to speak at all of the exorbitant double tax levied during the years 1828-30, was an unjust burden placed upon the poorer portion of the population, in order to foster whiskey distilleries; and there could be little doubt about that. It was conclusively proved that only three-eighths of the quantity of molasses imported from the West Indies was manufactured into rum; the rest was consumed in the raw state by the people who obtained it in exchange for their lumber or for the product of their fisheries. They used it every day, as one of their representatives said, in their humble fare, upon cakes and puddings, as a cheap substitute for sugar, in all their cookery, and for other domestic purposes. It entered copiously *into the*

*composition of beer, and various kinds of drink, which formed wholesome and valuable substitutes for ardent spirits.** It was shown by way of an example of the importance of molasses, as a factor in the wealth-producing capacity of some of the New England States, that in one single year (1827) the district of Portland, Maine, shipped 26,000,000 feet of boards, scantling, &c., to the West Indies, the return cargoes bringing home 3,890,321 gallons of molasses. This comparatively extensive trade, with which were associated a number of domestic industries, and upon which depended the supply of a necessary of life, was loaded with an uncommonly heavy and entirely unjust burden, in order that the grain-growers might have a monopoly of indirectly supplying the entire demand for ardent spirits. Whereas whiskey, the very article which in all reason should have been taxed to its utmost capacity of bearing tax-burdens, was left entirely tax-free, a necessary article of food had to bear a tax amounting to over sixty per cent. of its prime cost,† and a number of domestic industries were placed in jeopardy. Virtually, then, a luxury in all the word implies—and a luxury too, the excessive indulgence of which formed a theme of ethical lamentations and the subject of much corrective legislation—was protected against the competition of an article

* Benton's Debates of Congress, Vol. X, p. 58. When the tariff of 1828 was being discussed, Hunt, in giving a summary of the objections to a high duty on molasses, said, among other things, that Maine would suffer most under such a burden. "The fisheries," he said, "where are formed the bone and sinew of the navy, and which the vigilant policy of our Government has ever delighted to encourage and protect, would wither at the loss of any important branch of our trade with the West Indies. During the five years from 1822 to 1826, the dried and pickled fish, fish and whale oil, spermaceti candles, &c., which were sold in the West Indies, amounted, upon an average to \$989,776 per annum, being about twice the amount which was exported to all the other parts of the globe. These islands are the great foreign receptacles for our products of the sea."

† The average prime cost of molasses in the West Indies was 8½ cents.

of food at the expense of sundry manufactures, merely to please those agriculturists, who had conceived it to be their inalienable right to have domestic grain distilleries forced into existence for their special benefit, and who had taken singularly effective precautions against an internal taxation on these distilleries.

It would be an unwarrantable reflection on the intellect of such men as Benton, to admit even a doubt as to whether they understood to what this unrestricted distillation had already led, and would still further lead to. The reasons why they did not take preventive measures, although they understood the necessity for them, need not be recounted. An abundance of evidence is at hand, however, to prove that whenever Congress had an opportunity of legitimately furthering the cause of temperance, without displeasing the farmers, they readily availed themselves of it. To the class of laws enacted in that spirit belong all those acts, which aim at the encouragement of the use of fermented drinks, as, for instance, the sale of lands to French emigrants on the express condition that they cultivate grape-vine; the reduction of import duties on cheap table wines—the chances of a sufficient domestic production being as yet too problematical—and, finally, the increase of duties on ale, beer and porter, together with the particular protection of materials, the want of which seemed to retard the brewing industry. The adoption of such measures, no less than the many reports and speeches heretofore quoted, clearly prove that the law-makers were fully aware of the moral agency which the members of the first Congress assigned to fermented drinks, and that they were willing to do all they could to encourage the production of these wholesome beverages. but, on the other hand, the evasive manner in which they treated the question of temperance, whenever the interests of the grain-growers were involved, proved that, mistaking a prejudice, artificially

stimulated and sustained, for the just will of the people, they were afraid to adopt the only means, by which, in the absence of *cheap* and palatable fermented liquors, the evil of intemperance could have been lessened. Taking for granted the sincerity of such utterances as those of Benton in reference to the superiority of whiskey over rum, the taxing of molasses, almost to the amount of its value, might be construed as having a moral purpose; but there is this fact in conflict with such construction, that up to 1842 the import duties on spirits manufactured from molasses were *lower* by from four to fifteen cents per gallon, than those upon spirits manufactured from grain. Had a moral purpose prompted the tax on molasses, it would, for the sake of consistency, have also dictated an increase of duties on spirits made from this article. The fact that it was not done, that, in truth, a difference in the protective duties existed in favor of spirits from grain, reveals the true animus of the utterances alluded to.

The description of the state of affairs, contained in this chapter, leaves no uncertainty as to the extent to which the liquor question, in all its various aspects, was made a veritable football of an intricate complication of conflicting interests, of contradictory opinions and sentiments—all tending, however, to the encouragement of agriculture, which, calling the thing by its right name, meant the protection of the whiskey distilleries. From 1818 to 1846, in fact to 1857, whiskey was thoroughly protected against competition from without, while its manufacture was wholly unrestricted within the United States. Under such circumstances, a miracle only could have shielded the land from the results of excessive indulgence.

That these results were, nevertheless, not as disastrous as in other countries, similarly situated in the matter of cheapness of ardent spirits and facilities of obtaining them—as, for instance, in Sweden and Denmark—is to be ascribed first, to the counteracting agencies, whose germ the wis-

dom of patriotic statesmen had sown in the early days of the Republic; secondly, to the large influx of emigrants of moderate drinking habits; thirdly, to the influence of civilization and refinement, and, lastly, to that temperance agitation which for its success depended entirely upon moral suasion and the formative power of good example.

CHAPTER IX.

RESULTS OF THE "FREE WHISKEY" POLICY.—INEBRIETY IN THE RURAL DISTRICTS; CLERGYMEN, WOMEN AND CHILDREN ADDICTED TO THE VICE.—TESTIMONY OF TEMPERANCE AUTHORS.—WORK OF TEMPERANCE SOCIETIES; THEIR MORAL EFFORTS DIRECTED AGAINST ARDENT SPIRITS; BENEFICENT INFLUENCE OF THEIR AGITATION.—STRUGGLE BETWEEN MODERATES AND EXTREMISTS.—SPLIT IN THE TEMPERANCE PARTY IN 1836.—THE AGITATION TRANSPLANTED FROM THE DOMAIN OF MORAL SUASION TO THE LEGISLATIVE FIELD.—FERMENTED DRINKS CLASSED WITH ARDENT SPIRITS.—ABSURDITY OF MEANS AND ENDS.—VARIOUS AGENCIES COUNTERACTING THE EVILS OF DRUNKENNESS: PROGRESS OF THE NATION; INFLUX OF EMIGRANTS; GROWTH OF BREWING INDUSTRY AND WINE CULTURE.—WALKER, IN 1845, PROPOSES A TARIFF FOR REVENUE ONLY; MEXICAN WAR PREVENTS ADOPTION OF ALL HIS PROPOSITIONS; HIS PRINCIPLES ACTED ON.—CONTINUED OPPOSITION TO EXCISE ON SPIRITS.—REVENUE TARIFF OF 1857, SUPPLANTED BY MORRILL TARIFF.—STATE OF THE DRINK QUESTION IN 1860.

The condition of things which led to the agitation in favor of temperate drinking usages has not yet found an impartial historian, and it is questionable whether this generation, or even the next, will produce that marvelous being who could succeed in writing a history which one side or the other would not indignantly reject as wholly unworthy of confidence and belief. Yet a few facts there are, which neither master-logician nor master-orator can possibly explain away or argue out of existence—facts whose repositories are the statute books and legislative records of the country. One of these

facts is, that whatever misery our population had to endure in consequence of drunkenness is due to the selfishness of a great part of the rural population, in whose favor political opportunism dictated those laws and revocations of laws which made whiskey almost as free as water. Another fact, growing out of the first, is, that from the beginning the rural districts were the hot-beds of intemperance, the scenes of the wildest drunken revelries as well as of the greatest demoralization, consequent upon unbridled intemperance; and a third fact is, that, by a natural reaction, the same localities became the birthplace and, subsequently, the strongholds of the temperance agitation. Where the evil was greatest, there the crisis must of necessity have been most acute, the reaction most complete. Hence we find the earliest traces of this agitation in the rural districts, where the vice of drunkenness had fullest sway. It is almost impossible to form a correct idea of the drinking habits prevalent in those days, without knowing the manner of life, the occupation and surroundings of the people living in the most infected localities. Farm life was not then the refined state of existence which the dweller in crowded cities of to-day has so much reason enviously to admire; it was a life of continuous hardships, of few comforts and fewer recreations—a condition calling forth all the aggressive qualities of sturdy manhood, but in nowise appealing to, or cultivating, the finer sensibilities of man. Even the few persons who, by their education and calling, were enabled to lift themselves to a higher level, succumbed to the force of their environment, living up to the homely proverb, that being among wolves one must howl with them. We have it on the authority of Lebbens Armstrong, of Coxe, of Rush, of John Marsh* and others, that, in the country, clergymen drank as hard as their

* "The Temperance Reformation," by L. Armstrong. "Temperance Recollections," by John Marsh.

parishioners; that women and children joined in the revels; and that it was no more uncommon to meet a tipsy clergyman than to see a woman or a half-grown boy staggering under an overload of spirits, or a farm-hand lying "blind-drunk" by the road side. In his "Temperance Recollections," Marsh, describing the mode of life of the people of Haddam, a little village in Connecticut, where he had pastoral charge of the Congregational Church, says that they were "a staunch, well-informed, but plain people, whose labors were in ship-yards, coasting, fishing, quarrying and farming; labors in which ardent spirits was a daily ration at eleven and four as regularly as food was provided at other hours. A pitcher of water, as a part of table furniture was unknown. No one, not the most delicate female, used it." At his ordination, in 1818, the council, composed of some *thirty ministers* and delegates, assembled in a large tavern chamber; among that respectable number of good men there was just *one* "who had thrown off the dominion of King Alcohol," and he, of course, with the zeal characteristic of converts, delivered himself of a dreadful admonition, as often as a glass of brandy was raised to the lips of one of the company. "At length," says Marsh, "one of the Fathers, provoked beyond measure, by this stop put to the drinking custom, said, with a loud voice: 'Mr. C., do you let Brother K. alone and let him have his drink; you are a real pest, a genuine blackguard.'" This forcible reprimand put an end to Brother C.'s exhortations. As an illustration of the prevalence of intemperance the same author cites the fact, that in his church "seven-eighths of the cases of discipline were for the sin of drunkenness." Not to drink and give drink was deemed a violation of good manners, exposing the infractor to the suspicion either of haughtiness or of unsoundness of mind. Thus Marsh tells us that "two respectable members of the church had planted themselves on the doctrine of abstinence, and they would not give strong drink to those they employed;

but their action was viewed as a singular freak." It must have been viewed as worse than a freak, inasmuch as it was supposed to militate against the prosperity of the small community, for Marsh says, "a large distillery was considered a great blessing, and stores, kept by church members, freely dealt out the poison without reproach or sense of wrong-doing." In this small place, having a few hundred inhabitants, fifty-two hogsheads of New England rum were consumed in a single year (1818).

In the lumber regions of New York, the home of the first American temperance society,* drunkenness prevailed to as great an extent as in the lumber regions of Maine, where economic considerations conspired with the mode of life of the people to render drinking almost a necessity. Armstrong, although his zeal frequently overreaches its object whenever, in his readable work, he endeavors to draw general conclusions from personal experiences, may yet safely be relied on as a truthful narrator of episodes coming under his observation; and some of these serve as a good index to the state of affairs in the rural districts of New York. He tells of the half-grown son of a laboring man, who, when asked what would be his choice between a good education and a hogshead of whiskey, decided in favor of the latter, in these words: "I would take the whiskey if I could have it for a wish rather than all the larnin in the world; for dad loves whiskey, and mam loves whiskey, and I love it, and if we can only have anuf on it, who cares for anything else!" That women were addicted to hard drinking in this author's rural home, is manifest from the fact that temperance exhortations were sometimes especially addressed to them. Shortly before the delivery of one of his lectures in East Line school-

* The "Temperance Society of Morean and Northumberland" was organized as early as 1806, in Morean, a town in Saratoga county; its members pledged themselves to total abstinence from distilled spirits.

house, in 1833, Armstrong had attended the funeral of a female drunkard, who was burned to death, and this event, recalling to his memory many similar occurrences, formed part of the subject of his discourse. He there spoke of the "awful spectacle, when women have surmounted a sense of shame and disgrace and every other obstruction to the gratification of their appetite for strong drink, till they not only become drunkards, but under the influence of their besotted habit, have poisoned their husbands, killed their children, murdered their souls and left the world in despair."

The illustrations here quoted are typical of the descriptions furnished us by the temperance authors of the time, and no good reason exists for doubting them. There was unquestionably even then, though the evil was at its height, a good share of exaggeration, a tendency to surcharge facts, horrible enough in themselves, by blood-curdling hyperbolism; but to all of it there surely was a broad foundation of melancholy actuality, scarcely understood at present. Unlike the counterfeit thing of our days—counterfeit, because in the absence of any real need for it, it serves selfish ends—the agitation of the past has a ring of sincerity that cannot be mistaken. The agitators, no doubt, made mistakes, often confounded cause and effect, experimented with remedies more destructive in many instances than the malady; but they were sincere, and did what, in the light that was given them, they thought would rescue the country from a great social evil. More than foolhardy and unjust would it be to assert that they have not accomplished inestimable good, so long as they contented themselves with moral suasion. One may, indeed, smile at the fiery, overwrought eloquence of a Gough,* but one cannot withhold from

* A popular lecturer of the cause, whose style of oratory will be understood from the following extract from one of his discourses:

What brings yon trembling wretch upon the gallows? It is drink. And we might call upon the tomb to break forth. Ye mouldering victims! wipe

the spirit that dictated it a tribute of sincere admiration, nor refrain from lauding the ends it achieved. It is said † that in May, 1831, no less than nineteen State societies, embodying 3,000 local associations, were reported as having been formed on the basis of total abstinence from the use of ardent spirits as a beverage. In the State of New York, \$6,250,000 were said to have been saved to the population in the same year in the diminished use of ardent spirits; the societies claimed "to have rescued 3,000 drunkards and more than 10,000 men who had been on the road to habitual drunkenness. "More than a thousand distilleries had been stopped," says Marsh, and to consummate all this no other means were used than the power which the eloquence and sincerity of good men are apt to exercise over the masses. It must be remembered that the agitation was not confined to this country; in the British Isles and some parts of the European continent, a veritable crusade had been inaugurated against what the Germans called the *Branntwein-Pest*. It was supported by eminent men of all classes. It is not, then, to be wondered at, that in 1831 the so-called Washingtonian Band found such men as Attorney-General William Wirt, Daniel Webster, John Sargent, Theodore Frelinghuysen and others, willing to lend their cause moral aid,

the grave dust crumbling from your brow; stalk forth in your tattered shrouds and bony whiteness to testify against the drink! Come, come from the gallows, you spirit-maddened man-slayer, give up your bloody knife, and stalk forth to testify against it! Crawl from the slimy ooze, ye drowned drunkards, and with suffocation's blue and livid lips speak out against the drink! Unroll the record of the past, and let the Recording Angel read out the murder indictments, written in God's book of remembrance! aye! let the past be unfolded, and the shrieks of victims wailing be borne down upon the night blast! Snap your burning chains, ye denizens of the pit, and come up sheeted in the fire, dripping with the flames of hell, and with your trumpet tongues testify against the damnation of the drink.

† By John Marsh, who, as secretary and editor of the Temperance Union, had good opportunities of knowing. See his "Recollections" p. 26.

nor that, with such assistance and the help of the public press, a deep impression was made on the public mind. No loftier examples of Christian charity can be conceived than the deeds of those early temperance apostles, who, without any other aim than the welfare of their fellow-beings, gave their time, their labor and means for the good cause. Would that their wisdom had at all times been equal to their good intentions! Up to 1834 the movement generally remained within the bounds prescribed by reason, sound judgment and the lessons of experience; at the first National Temperance Convention, held in May, 1833, ardent liquor was still the only stimulant against which the joint efforts were directed; "the sale of none other," says Marsh, "was considered morally wrong." The means contemplated to be employed appear from the following extract from the resolutions adopted at that convention:

Resolved, That the object of this Union shall be, by the diffusion of information, and the exertion of kind moral influence, to promote the cause of Temperance throughout the United States.

Unfortunately this spirit of moderation soon gave room to a form of zeal which rapidly degenerated into zealotism of the most dangerous order. The slow process of reforming the habits of men by appealing to their reason, their pride and manhood, no longer satisfied a great portion of the friends of temperance. They conceived the idea of a *legal* enforcement of their doctrine of abstinence, and in this they soon included the very beverages which, here and elsewhere, men of talent and experience had, from the beginning, relied on as a means of eradicating the evils of intemperance. As early as 1835 Albany brewers felt constrained to sue for libel a wealthy zealot, who, unable to contradict the assertion that beer was virtually a temperance drink, published a statement to the effect, that deleterious materials and filthy water were used in the manufacture of beer. In the Saratoga Convention (1836)

these allegations found a strong echo, and were hotly discussed and stubbornly combatted, so stubbornly, indeed, that a resolution, classing fermented beverages with ardent spirits and enjoining total abstinence from both, brought on a rupture, which in a short time grew into a permanent schism, dividing the society into two wings—one composed of moderate, rational temperance advocates, and the other composed of extremists, the precursors of the prohibitionists of our day. The latter wing at once initiated a series of movements favoring the enactment of laws prohibiting the manufacture and sale of ardent spirits. In 1838 Maine took the lead in this agitation, a committee of the Legislature of this State recommending, “that the law giving the right to sell ardent spirits should be repealed, and a law prohibiting, except for the arts and medical use, be passed.” Massachusetts followed with the so-called Fifteen Gallon Law, which prohibited the sale of ardent spirits in less quantity than the name indicates. Afterwards the question of licensing retailers of spirits was ventilated in various ways, and, singularly enough, in some instances the retailers failed to see, that a license system would have the effect of a dam against the torrent of prohibitory efforts of their opponents. A body of Massachusetts spirit-venders appealed to the Supreme Court against the enforcement of a law of their State making it a criminal offense for any person to sell without license. The action became a *cause célèbre*, no less because of the constitutional question involved, than on account of the prominence of the jurists engaged on both sides—Webster and Choate for the appellants, Asabel Huntington for the State. Enraged at the opposition thus offered, the ultras at once agitated uniformly for: No License. It was in the course of this movement, that the people of the State of New York (in 1846) decided by a popular vote not to license venders of intoxicating drinks. The succeeding year brought the decision of the Supreme Court of the United States

in the *Massachusetts case*, acknowledging the right of the States to regulate the liquor traffic. At about the same time an event transpired which proved a serious blow to personal liberty as well as to true temperance, viz: the enactment of a prohibitory law by the Legislature of the State of Maine, which was superseded in 1851 by Neal Dow's law.

As a detailed description of the liquor laws of the various States, the spirit in which they were conceived and the manner in which they operated, is to be given hereafter,* it is unnecessary to present more than the foregoing rough outline of the temperance movement in the Union. From the time, when the sound principles upon which the *Washingtonian Band* began its operations, were abandoned, the cause of temperance was endangered more seriously by its alleged friends than by its enemies. The aim of the extremists was absurd; necessarily, their means were no better; and if in the whole agitation for prohibition there is anyone feature more strikingly absurd than the others, it is the readiness with which the empiricism of ambitious *quidams* was elevated to the dignity of scientific maxims. Nothing was too ludicrous, too absurd, to be employed in furtherance of prohibition, and thus it became possible that men, who under ordinary circumstances would have been declared monomaniacs, became the guiding minds of the new departure. Nothing could be more revolting to a true Christian mind than the rantings of those extremists who had conceived the scheme of clothing their teachings in a theological garb; indeed, the blasphemous spirit in which religious sentiment was profaned throws a strong light on the character of the agitation. One can scarcely believe what abominable nonsense the American people—eminently practical and clear-headed as they are deservedly reputed to be the world over—were in those days supposed to be accessible to. As a sample of the stuff that was

* See Preface.

dished up for them, the following may be quoted from J. Root's *The horrors of delirium tremens*.^{*} The author relates how, a few days after a drunken revel, he loitered in his room, *perfectly sober*, cogitating on the injuries he was doing himself and others by drinking to excess:

"While I was occupied there with these reflections, some being appeared to address me in a very familiar manner, as if we were old acquaintances. I could hear the language very distinctly, though it was uttered in a low whisper, as if he were afraid some others might hear, and I soon found that if I made any remarks in the same low voice, they were perfectly understood and a reply given immediately. A conversation was then commenced, and my strange visitor seemed to know many of the transactions which had taken place during my life, with which I supposed no one but myself acquainted. I did think it was very singular and strange that a being whom I could not discern, should not only have the power to converse with me, but also a better knowledge and recollection of some events in my life than I had myself. But though I was at some loss to account for the information which he so evidently possessed, yet I was not in the least frightened; my only feelings so far as I can now recollect, were wonder, and a desire to find out who or what it was that addressed me. After conversing with my mysterious visitant for some time on different subjects, all of which he appeared to understand remarkably well, I made some inquiry with a view to find out with whom I was conversing. He replied by saying that he was one of a large company, that were going through the country for the purpose of making some money, but by what means he did not distinctly explain. He represented the business as being very lucrative, and asked me if I would not like to join them and have a share in whatever they made. My answer was, that I should not have the least objection, as I wanted to make some money, and should like to know in what kind of business they were engaged. But he did not say what they were doing, and only remarked that it was profitable.

Up to this time, our conversation had been carried on in the same manner that any two persons would converse on ordinary topics or business. Singular as it may appear, instead of being either annoyed or frightened, I was perfectly at ease, or rather relieved; my mind was taken off from reflecting, and taken up with his conversation, which appeared like that of a very well informed gentlemen, on all subjects about which we conversed. His knowledge was indeed wonderful, for he appeared not only to know everything but also everybody whom I had either heard of

^{*} Published by Jonah Adams, New York, 1844.

or known ; some of the persons he told me were dead, others were alive and in such and such business, and he seemed to be quite as well acquainted with them as he was with me.

I was much pleased with his address, which was easy and courteous, for there was nothing rude or improper excepting his familiarity, and that he seemed to be rather entitled to use, on account of his knowledge respecting my affairs ; but both the address and the language soon changed, after I professed my willingness to become one of the company ; he then requested me to step into the next room, which I accordingly did, supposing he would there disclose their business and let me know what they were doing.

But I had no sooner entered the room, than there appeared to be quite a number of them, just over my head, all talking at once, and addressing me in the most opprobrious language, which was now as profane and vindictive as can be conceived. Instead of that courteous treatment, and the information which I expected to receive, they were now all upbraiding me for my wickedness, calling me a damned fool and threatening to kill me and put me in hell.

Perhaps, it would be entirely impossible to place a human being in a situation on earth, where he could be more utterly confounded than I was, when I heard those very devils, whose existence I had denied, arraign and curse me with such bitter malignity. For a man who had believed only a moment before, that there was neither a God, nor devil, nor hell, to have all three demonstrated to him in an instant, and in such a manner too—was certainly calculated to startle him some, as well as to change his faith.

As soon as I recovered from the shock of astonishment into which this conduct and language threw me, so as to be able to speak, I said, "What? Then there is a hell?"—"Yes—you damned fool—and you will soon be in it," was the reply. In an instant the thought rushed to my mind,—that, if there was a hell, there must be a God, a heaven, a Savior, and the bible was true. The thought had scarcely entered my mind, when they replied, "Yes—you damned fool—it is so. But you are going to hell with us. You have lost heaven by your senseless and wicked conduct, when you might have been saved, if you had not been such a damned fool." So great was their furious malice that they cursed, reviled and threatened, as if it were impossible even to wait until my horror of mind should kill me, and they seemed determined to crush out the spirit at once and have me in their power immediately.

Let me here make a few remarks to those who dislike to hear so much as they say about hell. When devils get human beings where they think they are sure of them—they are not very delicate about using language, and have no regard for ears polite. One devil can say more about hell in

three minutes than any human being can in three hours. They care nothing about the dignity and standing of the man, who would not hesitate to knock down his fellow-being, who should call him a fool, and tell him he was on the road to hell. Let me tell those who reject and despise the gospel, that if devils once get them into their power, they will hear something not only about hell, but also about their own folly, in conducting themselves (that is to say, in drinking), so as to be sent there.

This quotation was selected to show the reader what egregious nonsense was thought necessary to frighten the people into the adoption of an impracticable plan. Absurd in itself, the project had to rely on absurdities for its consummation, and here, evidently, the end was thought to justify the means. All this does not, however, detract from the real merits of the temperance movement, which unquestionably helped to prevent, to some extent, the spreading of the pernicious effects produced by the successful efforts to protect domestic distilleries in the interest of agriculture, and to leave them entirely unburdened by taxation, for the same reason. Of course, wherever the prohibitory idea was incorporated into a law, temperate drinking habits, which a substitution of fermented drinks might have produced—and in our time has produced—became absolutely impossible;* in fact, the evil grew more hideous than it ever was before. But Prohibition was happily confined to but a few localities, while in the rest of the Union moral suasion helped, in its way, to work out the great problem. The fact that in 1840 the product of domestic spirits, as returned by the census, amounted to *no more* than from 40,000,000 to 50,000,000 gallons, the population at that time being 17,069,000, may be ascribed, in part, to the temperance agitation; without it and without other countervailing agencies, the *per capita* consumption in 1840, 1850 and 1860 would presumably have been what it was in 1810, namely, eighteen quarts. During the three decades named other factors helped to pave the way

* See "Real and Imaginary Effects of Intemperance, pp. 66-84.

to a reformation of the drinking usages of the people. Of themselves these factors could not have accomplished such a reformation, but they laid the foundation for that structure of temperance, the erection of which was not rendered possible until the deplorable war between the North and the South compelled a change of the fiscal policy in regard to the liquor traffic.

The progress of civilization, the diffusion of knowledge among the laboring people, the general refinement of tastes and inclinations form one of these factors. They grew out of the general progress of the country, the development of domestic manufactures creating not only opportunities for a great diversity of in-door employments, but also a variety of new wants, tending to render life more comfortable, more refined. In the older States the hardships of "pioneering it" against the numerous obstacles of virgin wildernesses gave room to the easy-going methods of improved agriculture. The effect which this progress must have had upon the drinking habits of the people will be better understood, when it is remembered that intemperance was always most prevalent in lumber regions and border localities, and that there, according to reliable authorities, the primitive mode of life, the hardships of out-of-door employment and the want of recreation were regarded as among the prime causes of incontinence.* The influx of emigrants of moderate drinking habits occasioned another great stride in the path of temperance. From 1810 to 1850 the number of breweries increased from one hundred and twenty-nine to four hundred and thirty-one; the quantity of malt liquors produced in the Union increased during the same period from 5,754,737 to 23,267,730 gallons, of which latter

* "There can be no doubt that drunkenness prevails more in a rude than in a civilized state of society. This is so much the case, that as men get more refined, the vice will gradually be found to soften down, and assume a less revolting character." *Robert Macnish's Anatomy of Drunkenness*, (p. 2.) New York, 1835.

quantity Pennsylvania produced 12,765,974, New York, 6,059,122 gallons. In 1845 the manufacture of lager beer was first introduced into the United States, and from this time onward the brewing industry developed rapidly, though not at a ratio to be in any manner compared with its astonishing development since the war of the rebellion. The cultivation of the grape-vine also received a strong impetus through the German immigration, particularly after 1848. The climate and soil of Central New York, Southeastern New Jersey, Virginia, Northern Ohio, Michigan, Missouri, Texas and California offered special inducements to wine-growers, and some of these States are to-day in a fair way to rival the Rhenish countries. In spite of the many difficulties which attend wine-culture, the home produce of wine in 1860 amounted to 1,627,192 gallons. In 1810 only 11,655 gallons of wine were produced in the United States, of which 2,525 gallons were made of grapes, and 9,130 gallons of currants. The reduction of import duties on wines, particularly those of inferior quality, together with the extreme cheapness of ardent spirits, unquestionably delayed the development of this highly important branch of agriculture; but at all events the foundation laid during the period named facilitated the marvelous growth of later years. To a certain extent—not a very considerable one, however—the light taxation of the articles temporarily helped temperance, inasmuch as, under it, the importation of cheap wines increased, averaging about 3,500,000 annually during the decade 1830-1840. Compared with the earlier periods, 1801-1810, for instance, this state of the imports indicates no advance, but compared with the status shortly after the beginning of the era of high protective tariffs, it marks an appreciable improvement.

Insignificant as each of these agencies may appear, when separately considered, in their joint influence they surely were of importance in preventing a still greater degree of

misery, than the abuse of spirits had actually occasioned. The good they accomplished by keeping bad from worse, eludes every attempt at computation.

It will always be a matter for surprise and regret, that when the temperance agitation was at its greatest height, and when the protective idea had lost most of its force, not a single serious proposition was made in reference to what every sane man knew to be the only radical remedy against the evil of inebriety, namely: the restriction of distillation by internal taxation. When, in 1845, R. J. Walker, Secretary of the Treasury under Polk's administration, promulgated his economic anti-thesis * to Hamilton's report on manufactures, it was well understood that under the proposed regime of a tariff for revenue only, luxuries were to be taxed at the highest rate, so that even then spirits would be most protected, because its rival foreign product would be most heavily taxed; yet no thought was given to an excise on the article, save to scout the idea of its practicability. Surely, the popular prejudice against it should not then have had any more weight, seeing that the legislatures of some States went so far as to entirely prohibit distillation.

Walker's first tariff propositions, based on the new principles and adjusted to a peace-footing, would perhaps have become law in 1846 (although, as a German proverb has it, soups are rarely eaten as hot as they are brought from the stove), had it not been for the war with Mexico. As it was,

* Report of the Secretary of the Treasury, December 3rd, 1845, in which the following principles are enunciated, viz: that no more money should be collected than is necessary for the wants of the Government; that duties should only be laid at the lowest rate yielding the largest revenue; that below such rates discrimination may be made, descending in the scale of duties, or, for imperative reasons, the article may be exempt from duty entirely; that the maximum duties should be levied on luxuries; that specific duties be abolished, and that the duties be so equitably arranged as to discriminate neither for nor against any class or section.

the elemental parts of his policy were adopted, but his immediate propositions as to the rates of duties had to be so enlarged as to answer the public exigencies of a war. Under the new tariff law, approved July 30th, 1846, only *ad valorem* duties were imposed, ranging, in eight gradations, from five to one hundred per cent. Between the first grade of duties, viz: 100 per cent., imposed exclusively on spirituous liquors, and the second grade there was a difference of sixty per cent. This second class comprised spices, manufactures of tobacco, and wines; the next grade below this was a duty of 30 per cent. on the value, and in this schedule we find, among very many other articles, ale, beer and porter, in casks and bottles; and molasses. The rates were not again changed until the spring of 1857,* when the opponents of Protection found a potent ally in the plethoric condition of the Treasury. The arguments were not new on either side; the friends of the system claimed, that, in order to insure their prosperity, the American people must manufacture more, import less, and keep their specie at home; whereas the opponents of the *American system* maintained that the glutting of the Treasury with surplus revenues produced business stagnations, and that it was unjust to make the consumer pay indirect taxes to the domestic manufacturer.† The latter opinions won the day, and a great reduction of duties was effected by the tariff act of March 3rd, 1857, spirits and wines being taxed *thirty* per cent. on their value; molasses, *twenty-four* per cent., and ale, beer and porter at the same rate.

The interval of a low tariff lasted only four years, as the outbreak of the Rebellion necessitated an unprecedented increase of revenue; it is a significant fact, however, that *before*

* Act approved March 3rd, 1857.

† Boyce, of South Carolina, asserted that the indirect taxes thus paid by the consumer to the manufacturer amounted, up to 1857, to \$1,000,000,000.

this increase of revenue had become necessary, Mr. Morrill * introduced the tariff bill which to this day bears his name—a bill, in the framing of which some of the fundamental propositions of Walker's policy were entirely ignored; while the general tenor of the discussions on the measure seemed to indicate, to say the least, a leaning towards a protective tariff. At all events, a strong inclination prevailed to make the insufficiency of the tariff of 1857, as a revenue measure, serve as a cloak for the protection of various manufactures.†

The duration of the low tariff regime was so short, then, that in examining the general effects of the various fiscal and economic policies of the Government, it deserves but a modicum of consideration. Practically, the policy of protecting domestic distilleries—in a manner sometimes amounting to an inhibition of the importation of foreign spirits—lasted forty years; if the time be deducted during which, previous to 1820, the excise system was in force, the protection of domestic spirits and their absolute exemption from taxes may be said to have lasted fifty-five years. This double encouragement, together with the abundance of cereal produce, made whiskey so cheap, that in no country of the civilized world could one indulge his appetite for ardent spirits at a smaller cost than in the United States.‡ The cheapness of the article necessarily invited excessive consumption; there was no effectual preventive against that, save in a change of policy. The evil was inevitable; but great as it was, the people of the United States have ample cause to congratulate themselves, that it was not greater, as indeed, without the conjunction of the favorable

* In March, 1860.

† On the part of the opponents of the Morrill tariff it was claimed that the measure was in the nature of a political concession to Pennsylvania, whose adhesion to the Republican party was alleged to have been conditioned on the partial rehabilitation of the *American system*.

‡ In 1860 the average *retail* price of whiskey was 30 cents per gallon.

circumstances already mentioned, it would unavoidably have been.

The *per capita* consumption of ardent spirits in 1860 may be estimated at between eight and nine quarts. The total product, as returned by the census of 1860, was over 90,000,000 gallons; of this quantity at least 25,000,000 gallons were used in the arts, sciences and manufactures—leaving for consumption as drink and for export about 65,000,000 gallons. The exports of spirits and cordials of all kinds amounted to 4,437,132 gallons, the imports to 6,448,362 gallons*—the excess of the latter over the former being 2,011,230. The population was 31,443,321.

In connection with what has already been said concerning the circumstances, which helped to counteract the tendency to inebriety, the evident change for the better will be more readily understood when it is remembered, that the “foreign born” part of the population increased, from 1850 to 1860, at the rate of ninety per cent.—a large proportion being people of moderate drinking habits—and that the use of fermented drinks, compared with the total population, increased at a far greater rate, as will be seen from the following table:

Year.	Population.	Product of Hops, in lbs.	Product of Barley, in bushels.	Value of Malt liquor, brewed.	No. of Breweries.	Product of Wine, in gallons.
1850	23,191,876	3,497,029	5,167,015	\$5,728,568	481	221,249
1860	31,443,321	10,991,996	15,825,898	\$21,810,933	1269	1,627,192

Thus affairs stood when the outbreak of the war ushered in a complete revolution of our policy and fiscal methods.

* See Appendix.

CHAPTER X.

CONVOCAION OF 37TH CONGRESS.—CONDITION OF THE TREASURY IN 1861.—FISCAL NECESSITIES GROWING OUT OF THE REBELLION.—INCREASE OF IMPORT DUTIES AND IMPOSITION OF DIRECT TAXES.—INTERNAL TAXES POSTPONED.—CONDITION OF TREASURY IN 1862.—INTERNAL TAXES ON SPIRITUOUS AND MALT LIQUORS, AND ON LICENSES TO DEALERS DISCUSSED.—THE TEMPERANCE QUESTION DISCUSSED IN BOTH HOUSES OF CONGRESS.—DISCRIMINATION IN FAVOR OF MALT LIQUORS ADVOCATED; SCIENTIFIC TESTIMONY IN SUPPORT OF SUCH ADVOCACY.—THE STATUS OF THE PROHIBITION STATES AND OF THEIR CONGRESSIONAL REPRESENTATIVES.—INCONSISTENCY OF ADVOCATES OF PROHIBITION; THE FUTILITY OF THEIR SCHEMES DEMONSTRATED BY THEIR OWN STATEMENTS. DIFFERENCES AS TO RATES OF TAX ON DISTILLED SPIRITS, AND AS TO THE EXPEDIENCY OF TAXING STOCK ON HAND. EVASION OF TAX BY DISTILLERS PREDICTED.—TEXT OF REVENUE LAW IN RELATION TO INTOXICANTS.—INCREASE OF IMPORT DUTIES IN 1862.—INCREASE OF INTERNAL TAX ON SPIRITS IN 1864.—SPECULATION AND FRAUD COMBINING TO FRUSTRATE OBJECTS OF LAW.—APPOINTMENT OF SPECIAL REVENUE COMMISSION IN 1865: THEIR REPORT AND RECOMMENDATIONS.—MODIFICATION OF LAW IN 1868.

When Lincoln convoked the thirty-seventh Congress,* secession was an accomplished fact, the commandant of Fort Sumter had been compelled to capitulate, the Southern coast defenses and arsenals were in the hands of the enemy, and a Confederate army stood in the field, eager to meet the seventy-five thousand Union soldiers who had responded to their country's call. Of patriotism, of martial spirit, of strong arms there was no lack on the Union side; but the Treasury was

* The special session was begun on the 4th of July, 1861, and ended on the 6th of August.

practically empty. Chase's report of the 4th of July, 1861, showed that the receipts from June 30th, 1860, to June 30th, 1861, amounted to \$86,972,893—including \$46,064,082 from loans and Treasury notes, and that the aggregate of expenditures was \$84,577,258. For the succeeding year the expenditures were estimated at \$318,519,581. Loans, an increase of import duties, and direct and internal taxes were the means proposed by the Secretary of the Treasury to supply this sum. The Committee of Ways and Means, acting in the main on the Secretary's propositions, reported a revenue bill, including direct taxes, an income tax, and excises upon spirits, fermented liquors, and a number of other articles. After much discussion and many recommitments of the bill, a law was finally passed, and approved August 5th, 1861, enlarging the customs tariff, increasing certain import duties, laying direct taxes on lands and houses, and a tax on incomes. Unable to agree upon a system of internal taxation, unless information could be obtained as to the character and extent of the various objects contemplated to be embraced in it, Congress postponed this revenue measure in order to give the proper committee time to submit a comprehensive scheme. The import duties on spirits from grain and other material were fixed at fifty cents per gallon; those on brandy, \$1.50 per gallon; the duties on beer, ale and porter, which, by the Morrill tariff, had been fixed at twenty-five cents, when imported in bottles, and fifteen cents when imported in casks, remained unchanged; whereas the duties on wines, which, by the Morrill tariff, had been increased from thirty to forty per cent. on their value, were now raised to fifty per cent.

In December (1861) Chase reported a prospective deficit for the year 1861-62, of \$213,904,497, this being the excess of estimated expenditures over receipts. In the hope that "*the war may be brought to an auspicious termination before midsummer*" (1862), the Secretary recommended that

the obtaining of loans to the amount of two hundred millions be authorized; that certain import duties be increased and the amount of direct taxes levied under the existing law be raised. Had this hope been realized, the Committee of Ways and Means of the House of Representatives might not, perhaps, have been called on to present the system of internal taxation, with the preparing of which it had been entrusted in the extraordinary session. But, instead of the auspicious termination of the war, the next year brought to the minds of all the conviction, that the struggle would be carried *à l'outrance*, that the last ditch must be fought for. The expenditures necessitated by the war continued to increase at an enormous rate, and the making of provisions for them no longer permitted delay. Considering the magnitude and complexity of the subject of internal taxation, as it presents itself in the law of July 1st, 1862, the Committee of Ways and Means may well be said to have consummated their task with great skill. Their report, submitted to the House on the 3rd of March, 1862, was based on the result of a series of investigations and inquiries, which at that time seemed to preclude serious errors; unfortunately, they did not.

Manufacturers, merchants and shippers, economists and moralists seem to have been given a hearing by the committee for the purpose of ascertaining as nearly as possible, what tax-burdens the various trades and callings could bear. In reference to the taxing of spirits the committee appear to have been a little perplexed by the superabundance of advice, legitimately offered and obstinately obtruded upon them. People of prohibitory proclivities wished to have the manufacture taxed to death; earnest, but moderate temperance advocates desired to restrict it by taxation; wealthy distillers, having either a large stock on hand or the means rapidly to accumulate one, insisted on an exorbitant tax, because they already speculated on the enormous profits they would realize by a rise of

prices—it being a foregone conclusion with them, that “stock on hand” would not be taxed; the owners of small distilleries objected to an excessively high rate of tax, and the agriculturists again sided with the latter, on the ground, that much the largest quantity of spirits produced in the country was from corn, and that consequently a tax tending to restrict distillation would be detrimental to the farming interests. Along with all these divergent views came the question of giving preference to fermented beverages over ardent liquors. In what manner these conflicting desires, views and expectations were treated, may be seen from a speech in which Morrill, who was a member of the Ways and Means Committee and acted as their spokesman, explained the nature of the bill. He said :

The duties proposed by the present bill rest heavily on spirits and malt liquors—being about one hundred per cent. on raw whiskey, fifty per cent. on rum, and twenty-five per cent. on ale or beer—but far below the point at which even some prominent distillers thought they might be safely carried, and yet largely above the point indicated by the majority of those engaged in the business. The men who now are supposed to have large stocks on hand, and those who would destroy the traffic, regardless of revenue, for once agree in the propriety of an exorbitant tax. Large quantities of alcohol are used in the arts and manufactures, and will pay a duty in proportion to its strength. For any such purpose the duty proposed on the raw article is as high as it will bear. Little whiskey is sold to be used as a beverage until it has passed through some process of rectification, is re-distilled, or is filtered through charcoal. All spirituous liquors, it will be seen, which are subjected to this hocus-pocus, or the jargon of juniper, strychnine, and other sugar-coated pills, are again assessed to the extent of twenty-five cents per gallon, making in all forty cents per gallon on a large share of spirituous beverages. Surely this is enough, very possibly too much. In England the duty on spirits is ten shillings and fivepence sterling, or about \$2.52 per gallon. It is manifest that at present no such duty could be collected of the people of the United States. Much the largest quantity of spirits produced in this country is from corn, and many persons engaged in the business apprehend, that we shall cut them up by the roots with a duty so high as even fifteen cents per gallon, and that great injury will result to farming interests thereby. The committee were satisfied these fears are not well founded. So long as consumption keeps equal pace with production—as in the case of all manufactures—the consumer

must pay the increased cost price. The consumption will not be seriously checked ; and, if it could be, such a result would bring upon us no national disgrace. Whisky and rum, with the duty added, will still leave it possible for any man or brute to get drunk in our land on cheaper terms than in any other that I know of. Persons who like good liquors are patriotic on the subject of taxation, and never quarrel about the price of the article ; and those who swallow that which is said to be "sure to kill at forty rods," will have it at any hazard of life or purse.

Although the representative of a State, in which a prohibitory law was at that time in force, Morrill had the moral courage to admit—with some reserve, it is true—the correctness of the assertion, that malt liquors promote temperate drinking habits. This admission must be looked for between the lines, as the saying is, but it is there for all that. "Ale and beer," said Morrill, "as beverages may be regarded as less unhealthful than spirits. It is therefore desirable to preserve the relative difference in the value of the quantities usually disposed of at retail, so as not to give any new advantages to competing liquors."

Throughout the debate in the House on the taxes intended to be imposed upon distilled spirits and fermented liquors, the old question of fostering the milder beverages in preference to ardent spirits, was kept prominently in the foreground, and the issue between the Prohibitionist minority and the majority of rational temperance advocates was all the more pointed for the reason, that Stevens, of Pennsylvania, who had reported the bill, was himself a brewer, represented a beer-drinking constituency, and consequently had triple cause to defend the provisions of the proposed law, so far as they tended to discriminate in favor of fermented liquors. The opposition to these was neither very bitter nor very formidable ; in fact, excepting the promiscuous onslaughts of some of the most zealous members from New England, there was no objection at all to such a discrimination, and it seemed to be pretty generally acknowledged, that what was regarded in all civilized countries as the

only possible solution of a much vexed question, ought to hold good in our country. This was true to such an extent, that, through the solicitude of members, lest the brewing industry be overburdened, even Stevens was frequently forced into an attitude of seeming hostility to his constituents' interests. Thus, when the licensing of brewers was discussed, Holman, of Indiana—who was under the erroneous impression, that a tax on beer of one dollar per barrel would amount to three cents per quart—spoke against the laying of additional burdens on the brewing industry, which he conceived to be alike beneficial and necessary. He said:

"This tax applies to all kinds of beer—lager beer, strong beer, and every kind of brewed drink of that nature. This has become an article of absolute necessity in many parts of the country, as much so as tea and coffee. Among the German population lager beer seems to have become an article of absolute necessity. In my own county, at almost every point where a pure spring gushes out of the hills, there is a brewery."

Many other members spoke in a similar strain, and although Stevens showed them that their objections were predicated on an erroneous supposition, they nevertheless insisted on a reduction of the brewers' license. This occurred just at a time when a sanitary commission, appointed by the President and Secretary of War, to examine the camps of the Union army and to report upon their sanitary condition,* had rendered an interesting report which testified to the healthfulness of malt liquors in these words:

"In certain regiments containing a large percentage of Germans, lager beer has been freely used. There is evidence before the commission tending to show that its use (at least during the summer) was beneficial, and that disorders of the bowels were less frequent in companies regularly supplied with it in moderation than in other companies of the same regiment."

* This commission consisted of Rev. H. W. Bellows, Professor A. D. Bache, George T. Strong, Frederick Lew Olmsted, Drs. J. S. Newberry, J. F. Jenkins, J. H. Douglas, A. J. Bloor, E. B. Elliott and John Bowne.

The same report contained a comparative statement showing the proportion of cases of sickness among the troops from the various States, from which it appeared that the average number of men constantly sick in regiments, one thousand strong, was as follows: New York, 52; Pennsylvania, 57; Massachusetts, 52; Connecticut, 49; Vermont, 88; and Maine, 124. With telling effect these facts and figures were held under the eyes of the members from Prohibition States. In the main, the old ideas, ventilated so frequently and thoroughly in nearly every Congress since the adoption of the Constitution, again came to the surface whenever the matter of fermented drinks was on the *tapis*; and in nearly every instance the representatives of Maine rendered a vindication of these ideas necessary. Rice, of that State, for instance, in opposing a motion to reduce the tax on wine from 5 to 2 cents per gallon, and proposing, instead of either, a tax of sixteen cents, did not hesitate to class wine with whiskey and rum. This elicited the assertion (by Horton), that wine was one of the most efficient agents of carrying out the idea of the Maine law. "I take the responsibility," retorted this gentleman, "of saying that it has a greater tendency to prevent the excessive use of ardent spirits than any agent I have known to be appealed to for the last ten years. The moderate and habitual use of good American wine produces a distaste for the use of deleterious ardent spirits. I think, therefore, that all those gentlemen who believe as the gentleman from Maine does, that the Maine law is a benefit to the country, and that it advances civilization, should come up to the help of the Committee of Ways and Means in this instance, and vote for a small tax on native wine as a promotive of temperance."

In the Senate Sherman, of Ohio, opposed a tax on wine made of domestic grapes, on the ground, that it would retard the progress of grape-culture in his State, in Missouri and in California, where, he thought, altogether about ten thousand

acres were then being cultivated by German vintagers. Grimes of Iowa, after adverting sarcastically to the expunging of a tax upon "brandy manufactured out of whiskey that killed at forty rods," said that he would regard it as "the greatest boon that could be conferred upon this country if Congress could so stimulate grape-culture that wine would be as common a drink as cider used to be in New England when he was a boy." McDougal, of California, reminded his colleague of the Congressional tradition on the subject of wine-culture; and emphasized the fact, that in his State large premiums were paid for the purpose of encouraging the production of wine:

"The enterprise is in its infancy. It operates toward both material prosperity and national morality; and such is the opinion, I believe, of the entire country. It has been considered a thing that States should favor by legislation and by bounty, and it is favored by particular localities in the same manner. I will ask whether, when the great culture and production of wine was started about Cincinnati, it was not regarded as a great feature of American * enterprise, and, if it could be accomplished, as a success and a great thing for our country. Such was the voice of the nation, and so it has been from that time until now."

Sherman, ordinarily a man of "hard sense" rather than of sentiment, indirectly claimed the exemption of wine from internal taxation as a sort of mark of recognition to the German-Americans, who, as he thought, were showing themselves very patriotic in the war, and had at all times manifested a sincere solicitude for the welfare of the country. This usually stern law-maker disclosed a very keen appreciation of a sentiment, which to this day prevails among the German population, when he said that in cultivating the grape-vine, the vintners "supposed they were contributing to the public weal." Why should they

* Colonel Longworth, whose ambition it was said to have been to make the Ohio a sort of American Rhine, induced a great number of German vintners to settle on his lands and to cultivate the grape-vine, offering them unusually favorable terms. Under this arrangement the industry developed rapidly, yielding large pecuniary profits and an excellent wine.

not have supposed so? Every child then knew that in all civilized countries, where ardent spirits were used to excess, the aim of law-makers had been to introduce milder stimulants; that as the Swedish Government endeavored to compel the cultivation of hops, so the German authorities successfully strove to introduce the brewing industry into the North of Germany, and the English Parliament sought, less successfully, to correct the errors of its predecessors, by releasing malt liquor from its exorbitant burdens. And in America—what was the whole temperance agitation, before it degenerated into a Quixotic crusade of extremists, but an effort to substitute as far as possible and rational, beer and wine for whiskey and rum? It is worthy of note, that the moral arguments advanced in favor of wine and beer were not assailed in the Senate, although Wilson, of Massachusetts, and Pomeroy of Kansas (“coming events cast their shadows before”), jealously watched over the interests of Prohibitionists, availing themselves of every opportunity of expounding the Maine idea. With a zeal and an energy characteristic of him, Wilson, this truly patriotic man and gifted legislator, opposed every feature of the tax bill that could in any manner be construed as a concession to the *demon of inebriety*; he, nevertheless, allowed it to be understood—if silence in such a case may be said to imply consent—that he approved of the views expressed by Sherman and evidently entertained by a majority of both Houses. This is nothing to be wondered at, seeing that in the very States, whose prohibitory laws had become the favorite temperance scheme of Wilson, the question of exempting fermented liquors was frequently made an issue between the friends of the cause, and quite as often determined affirmatively. His opposition to the liquor traffic, and that of his co-workers in the House and Senate generally, might have been more effective, if it had been more consistent. While he, and a few others, who styled themselves friends of temperance, advocated the highest rate

of taxes on the manufacture of spirits, they strenuously opposed the licensing of retailers of that article, and in the endeavor to carry their point, they unwittingly revealed the futility of the prohibitory laws then in force. In truth, they tried very hard to make national legislation do what, according to their own admission, State legislation had absolutely failed to accomplish. If later enquiries had not yielded an abundance of statistical evidence of the total worthlessness of Prohibition, one could not wish for better proof of it than is offered in the speeches of Wilson and others. When he first assailed the section relating to licenses, Wilson argued that the retail traffic would be lifted "into a kind of respectability," which he predicted would have "a most demoralizing influence upon the country," and particularly of course, in States where prohibitory laws were then in force. It is well to state the reasons for this in his own words :

"Sir, in some States we have laws forbidding the retailing of ardent spirits, but in spite of these laws, thousands of persons are retailing spirits to the great injury of the community. It (the license) is intended to go into the State of Massachusetts, where there are, in spite of prohibitory laws, several thousand rum sellers."

Appealed to by Wilson, Foster, of Connecticut, stated that in his State a prohibitory law, much more stringent than that of Massachusetts, was in force, but could not be executed. This gave Wilson a fresh subject for lamentation, and he now indulged his imaginative faculty in the best style of our later-day Prohibitionists. For the sake of a few thousand dollars, he said, the United States Government would give licenses to sell an article by which "more Union soldiers have been killed than by the balls of the enemy." When asked why he gave his vote to tax distilleries, he answered that he did so, because he wished to kill these establishments by a tax. Singularly enough, all his ablest opponents hailed from Prohibition States. Fessenden, of *Maine*, for example, had the moral

courage to be logical in this matter, claiming that it was no worse to license the retailer than to tax the distiller, that, if it was immoral to pocket the "wages of sin" from one, it must of necessity be immoral to take the money of the other. Anthony, of Rhode Island,* said :

"In Maine and Massachusetts where no licenses are granted, the business is carried on, I suppose, quite as extensively—it *is in our State*—as it is where licenses are granted; and there ought to be some mode provided in this bill whereby men who sell spirituous liquors contrary to law should at least be made to pay to the general Treasury as well as those who sell according to law."

Foster, of Connecticut, gave a brief history of the prohibitory law which had been in force in his State since 1852, and in doing so, he not only acknowledged that the legal inhibition could not stop the stealthy sale of spirits, but he also proved that after two years the law had become virtually inoperative by reason of a strong popular sentiment against it. His remarks left nothing to be desired in point of directness. Thus he said :

"In all large towns of the State, and many, probably most, of the small ones, liquor is now sold and sold very generally, in utter violation of law. Our public authorities occasionally, but rarely, institute prosecutions, and convictions are by no means common. Where a man is prosecuted, he defends. It is frequently difficult to make out the proof, even although the place may be notorious as one where liquor is sold, and men sometimes escape conviction who are notoriously guilty. Public feeling has become rather indifferent to the subject of prosecutions and they are generally discontinued."

Hale, of New Hampshire, another Prohibition State, was still more emphatic in his utterances; he said :

"I live in a city of about ten thousand inhabitants, about as orderly a city as there is, I believe, in New England anywhere, of its size, as law-abiding a people; and I believe to-day *there never were, at any time, and under any circumstances, two-thirds as many places where liquor is openly and*

* Rhode Island had her second prohibitory law up to 1868.

habitually and constantly sold, week days and Sundays, as it is under the operation of our entirely prohibitory law ; and I do not think we are worse than the rest of mankind."

These specimens will suffice, it is hoped, to corroborate the assertion, that the representatives of the Prohibition States were unanimous in their conviction, that the prohibitory laws they had helped to enact did not stop the liquor traffic ; nevertheless, some of them preferred their system of illicit, illimitable and uncontrollable traffic to a method by which, as Wilson justly remarked, the business would be rendered respectable, that is to say, placed under control and in the hands of responsible citizens. The attitude of Wilson in this question only confirms the observation, that even the best and most talented of men sometimes succumb to the infection of visionary schemes. He made no attempt to conceal his zealotism on the subject ; on the contrary, he openly declared that he preferred to "let everybody sell that chose to sell, rather than to have anybody licensed to sell." With all due reverence for the manes of a patriot whose memory thousands of brave Union veterans cherish,* it must be said that such utterances characterize the wildest sort of fanaticism. He asserted what he did not and could not know ; he talked of facts which never existed ; he built up a structure of fantastic arguments, which the slightest inquiry into facts completely subverted. He claimed that "the system of licenses increased drunkenness and the crimes that follow drunkenness"—yet, in 1867, when the real state of things was laid bare by a thorough examination, his own State repudiated these views as totally unfounded in fact.

In view of the mass of evidence, adduced by representatives of Prohibition States, against the expediency of tyrannical legislation, there is no cause for wonderment that the Maine

* One of Wilson's claims to his country's gratitude is his untiring work in the Committee on Military Affairs.

idea failed to have any effect whatever on any of the features of the revenue law.

Concerning the rate of tax which whiskey was supposed to be able to bear, the views of our legislators differed widely. Some members of Congress advanced the opinion, in all seriousness, that a tax on ardent spirits, however exorbitant, would be collectable, and could not diminish consumption; while others seemed to think that taxing the article at the rate of one hundred per cent. on its value would be almost equivalent to destroying the manufacture. This divergence of opinions subsequently led to a series of experiments which incited a ruinous spirit of speculation and invited the perpetration of frauds upon the Government. At the time when the laying of the first tax was being discussed in Congress, there was abundant evidence that the distillers of the country already speculated on the increase of price, which must inevitably follow the imposition of a tax on the article, and that this speculation was based on the supposition—which proved to be correct—that the stock on hand at the time the law was to go into effect would not be taxed. Legislators could not well plead ignorance of this scheme, as Sherman and others repeatedly called attention to it, and sought to contravene it by inserting in the bill a clause imposing a tax upon stock on hand. Sherman said:

"I am satisfied, and I make the statement now with perfect confidence, that if this tax is made twenty or twenty-five cents, or even fifteen cents, it will stop in a great measure the manufacture of whiskey for at least six months, for a very simple reason. It has been known ever since last July that a tax would be put on whiskey, and all distilleries of the country have been running to their extremest capacity, and to-day they are running more than they have done before. Every old still in the country has been set at work, simply because it was supposed a tax would be put on whiskey, and that the stock on hand would not be taxed."

This statement of fact, made at so early a stage of the development of our gigantic revenue system, should be borne

in mind, as it is of great importance in forming a just opinion of the fluctuating character of distillation in subsequent years, under repeated changes of the rate of tax.

The revenue law, as finally passed, imposed a tax of twenty cents per gallon, on whiskey, and of one dollar per barrel, on fermented liquors. According to the schedule of licenses, which included nearly every trade and calling, distillers had to pay \$50 for each license, annually; brewers, \$25 and \$50, according to the quantity of beer brewed; wholesale dealers in all kinds of liquors, \$100, and retail dealers in liquors, \$20. The full text of that part of the law which relates to spirits, ale, beer and porter reads as follows:

SPIRITS, ALE, BEER AND PORTER.

SEC. 89. *And be it further enacted*, That it shall be the duty of the collectors, within the respective districts, to grant licenses for distilling, which licenses shall contain the date thereof, the sum paid, and the time when the same will expire, and shall be granted to any person, being a resident of the United States, who shall desire the same, by application, in writing, to such collector, upon payment of the sum or duty payable by this Act upon each license requested. And at the time of applying for said license, and before the same is issued, the person so applying shall give bond to the United States in such sum as shall be required by the collector, and with one or more sureties, to be approved by said collector, conditioned that in case any additional still or stills, or other implements to be used as aforesaid, shall be erected by him, his agent or superintendent, he will, before using, or causing or permitting the same to be used, report in writing to the said collector the capacity thereof, an information from time to time of any change in the form, capacity, ownership, agency or superintendence, which all or either of the said stills or other implements may undergo; and that he will, from day to day, enter, or cause to be entered, in a book to be kept for that purpose, the number of gallons of spirits that may be distilled by said still or stills, or other implements, and also of the quantities of grain or other vegetable productions, or other substances put into the mash-tub, or otherwise used by him, his agent, or superintendent, for the purpose of producing spirits, which said book shall be open at all times during the day (Sundays excepted) to the inspection of the said collector, who may make any memorandums or transcripts therefrom; and that he will render to the said collector, on the first, tenth, and twentieth days of

each and every month, or within five days thereafter, during the continuance of said license, an exact account, in writing taken from his books, of the number of gallons of spirits distilled and sold, or removed for consumption or sale, by him, his agent, or superintendent, and the proof thereof, and also of the quantities of grain and other vegetable productions, or other substances, put into the mash-tub, or otherwise used by him, his agent or superintendent, for the purpose of producing spirits, for the period or fractional part of a month then next preceding the date of said report, which said report shall be verified by affidavit in the manner prescribed by this Act; and that he will not sell or permit to be sold, or removed for consumption or sale, any spirits distilled by him under and by virtue of his said license, until the same shall have been inspected, gauged and proved, and the quantity thereof duly entered upon his books as aforesaid; and that he will, at the time of rendering said account, pay to the said collector the duties which by this Act are imposed on the spirits so distilled; and the said bond may be renewed or changed, from time to time, in regard to the amount and sureties thereof, according to the discretion of the collector.

SEC. 40. *And be it further enacted*, That the application in writing made by any person for a license for distilling, as aforesaid, shall state the place of distilling, the number and capacity of the still or stills, boiler or boilers, and the name of the person, firm, company, or corporation using the same; and any person making a false statement in either of the said particulars shall forfeit and pay the sum of one hundred dollars, to be recovered with costs of suit.

SEC. 41. *And be it further enacted*, That in addition to the duties payable for licenses herein provided, there shall be paid, on all spirits that may be distilled and sold, or removed for consumption or sale, of first proof, on and after the 1st day of August, eighteen hundred and sixty-two, the duty of twenty cents on each and every gallon, which shall be paid by the owner, agent, or superintendent of the still or other vessel in which the said spirituous liquors shall have been distilled; which duty shall be paid at the time of rendering the accounts of spirituous liquors so chargeable with duty, required to be rendered by this act: *Provided*, That the duty on spirituous liquors and all other spirituous beverages enumerated in this Act shall be collected at no lower rate than the basis of first proof, and shall be increased in proportion for any greater strength than the strength of proof.

SEC. 42. *And be it further enacted*, That the term first proof used in this Act and in section six of the Act of March second, eighteen hundred and sixty-one, entitled "an Act to provide for the payment of outstanding treasury notes, to authorize a loan, to regulate and fix the duties on imports, and for

other purposes," shall be construed, and is hereby declared to mean, that proof of a liquor which corresponds to fifty degrees of Tralles' centesimal hydrometer, adopted by regulation of the Treasury Department, of August twelfth, eighteen hundred and fifty, at the temperature of sixty degrees of Fahrenheit's thermometer; and that in reducing the temperatures to the standard of sixty, and in levying duties on liquors above and below proof, the table of commercial values, contained in the manual for inspectors of spirits, prepared by Professor McCulloch, under the superintendence of Professor Bache, and adopted by the Treasury Department, shall be used and taken as giving the proportions of absolute alcohol in the liquids gauged and proved according to which duties shall be levied.

SEC. 43. *And be it further enacted*, That there shall be designated by the collector in every assessment district where the same may be necessary one or more inspectors, who shall take an oath faithfully to perform their duties in such form as the Commissioner of Internal Revenue shall prescribe, and who shall be entitled to receive such fees as may be fixed and prescribed by said Commissioner. And all spirits distilled as aforesaid by any person licensed as aforesaid shall, before the same is used, or removed for consumption or sale, be inspected, gauged, and proved by some person so as aforesaid designated for the performance of such duties, and who shall mark upon the cask or other package containing such spirits, in a manner to be prescribed by said commissioner, the quantity and proof of the contents of such cask or package, with the date of inspection and the name of the inspector. And any person who shall attempt fraudulently to evade the payment of duties upon any spirits distilled as aforesaid, by changing in any manner the mark upon any such cask or package, shall forfeit the sum of five hundred dollars for each cask or package so altered or changed, to be recovered as hereinbefore provided. And the fees of such inspector shall in all cases be paid by the owner of the spirits so inspected, gauged and proved. And any such inspector who shall knowingly put upon any such cask or package any false or fraudulent mark shall be liable to the same penalty hereinbefore provided for each cask or package so fraudulently marked. And any person who shall use any cask or package so marked, for the purpose of selling, spirits of a quality different from that so inspected, shall be subject to a like penalty for each cask or package so used.

SEC. 44. *And be it further enacted*, That the owner or owners of any distillery may erect, at his or their own expense, a warehouse of iron, stone, or brick, with metal or other fire-proof roof, to be contiguous to such distillery; and such warehouse, when approved by the collector, is hereby declared a bonded warehouse of the United States, and shall be used only for storing distilled spirits, and to be under the custody of the collector or his deputy.

And the duty on the spirits stored in such warehouse shall be paid when and as it is sold or removed from such warehouse for sale.

SEC. 45. *And be it further enacted*, That every person who, on the first day of August, eighteen hundred and sixty-two, shall be the owner of any still, boiler, or other vessel, used or intended to be used for the purpose of distilling spirituous liquors, as hereinbefore provided, or who shall have such a still, boiler, or other vessel under his superintendence, either as agent for the owner or on his own account, and every person who, after said day, shall use or intend to use any still, boiler, or other vessel, as aforesaid, either as owner, agent, or otherwise, shall from day to day make true and exact entry, or cause to be entered, in a book to be kept by him for that purpose, the number of gallons of spirituous liquors distilled by him, and also the number of gallons sold, or removed for consumption or sale, and the proof thereof, which book shall always be open in the day time, Sundays excepted, for the inspection of the said collector, who may take any minutes, memorandums, or transcripts thereof, and shall render to said collector, on the first, tenth and twentieth days of each and every month in each year, or within five days thereafter, a general account in writing, taking from his books, of the number of gallons of spirituous liquors distilled and sold, or removed for consumption or sale, and the proof thereof, for the period or fractional part of a month preceding said day, or for such portion thereof as may have elapsed from the date of said entry and report to the said day which shall next ensue; and shall also keep a book or books, in a form to be prescribed by the Commissioner of Internal Revenue, and to be open at all seasonable hours for inspection by the collector and assessor of the district, wherein shall be entered, from day to day, the quantities of grain, or other vegetable productions, or other substances put into the mash-tub by him, his agent, or superintendent, for the purpose of producing spirits; and shall verify, or cause to be verified, the said entries, reports, books, and general accounts, by oath or affirmation, to be taken before the collector or some other officer authorized by the laws of the State to administer the same according to the form required by this act, where the same is prescribed; and shall also pay to the collector the duties which by this act ought to be paid on the spirituous liquors so distilled and sold, or removed for consumption or sale, and in said accounts mentioned, at the time of rendering an account thereof.

SEC. 46. *And be it further enacted*, That the collector of any district may grant a permit to the owner or owners of any distillery within his district to send or ship any spirits, the product of said distillery, after the quantity and proof thereof shall have been ascertained by inspection according to the provisions of this act, to any place without said district, and within the United States; and in such case the bill of lading or receipt (which shall be in such

form as the Commissioner of Internal Revenue may direct) of the same shall be taken in the name of the collector of the district in which the distillery is situate, and the spirits aforesaid shall be consigned, in such bill of lading or receipt, to the collector of the district in which the place is situate, whither the spirits is sent or shipped, and the amount of duties upon said spirits shall be stated in the receipt; and upon the arrival of the spirits, and upon the demand of the collector aforesaid, the agent of the distillery (and the name of the agent, for the convenience of the collector, shall always appear in the bill of lading or receipt) shall pay the duties upon the said spirits, with the expense of freight, and every other expense which has accrued thereupon; and the said collector, upon the payment of the duties aforesaid, shall deliver the bill of lading or receipt and the spirits to the agent of the said distillery; and if the duties are not paid as aforesaid, then the said spirits shall be stored at the risk and cost of the owner or agent thereof, who shall pay an addition of ten per centum thereupon; and all the general provisions of this act in reference to liens, penalties, and forfeitures, as also in reference to the collection, shall apply thereto, and be enforced by the collector of the district in which the spirits may be: *Provided*, That no permit shall be granted, under this section, for a quantity less than fifty barrels: *And provided further*, That the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, may make such further regulations, and require such further securities, as he may deem proper in order to protect the revenues and to carry out the spirit and intent of this section.

SEC. 47. *And be it further enacted*, That distilled spirits may be removed from the place of manufacture for the purpose of being exported, or for the purpose of being redistilled for export, and refined coal oil may be removed for the purpose of being exported, after the quantity of spirits or oil so removed shall have been ascertained by inspection, according to the provisions of this act, upon and with the written permission of the collector or deputy collector of the district, without payment of the duties thereon previous to such removal, the owner thereof having first given bond to the United States, with sufficient sureties, in the manner and form and under regulation, prescribed by the Commissioner of Internal Revenue, and in at least double the amount of said duties, to export the said spirits or oil or pay the duties thereon within such time as may be prescribed by the commissioner, which time shall be stated in said bond: *Provided*, That any person desiring to give such bond shall first make oath, before the collector or deputy collector to whom he may apply for a permit to remove any such spirits or oil, in manner and form to be prescribed by said commissioner, that he intends to export such liquors or oil, and that he desires to obtain said permit for no other purpose whatever: and any collector or deputy collector is hereby authorized to administer such oath: *And provided further*, That no such removal shall be

permitted where the amount of duties does not exceed the sum of three hundred dollars, nor in any case where the person desiring such permission has failed to perform the obligation of any bond previously given to the United States for the removal of any such articles, until the same shall have been fully kept and performed. And the collector of the district in which any such bond may be given is authorized to cancel said bond on payment of said duties, with interest thereon, at a rate to be fixed by said Commissioner, and all proper charges, if said liquors or oil shall not have been exported, or upon satisfactory proof that the same have been duly exported as aforesaid. And in case of the breach of the obligation of any such bond, the same shall be forthwith forwarded by the collector of the district to the Commissioner of Internal Revenue, to be by him placed in the hands of the First Comptroller of the Treasury, who shall cause the same proceedings to be taken thereon, for the purpose of collecting the duties, interest, and charges aforesaid, as are provided in this act in case of a delinquent collector.

SEC. 48. *And be it further enacted*, That the entries made in the books of the distiller, required to be kept in the foregoing section, shall, on the first, tenth, and twentieth days of each and every month, or within five days thereafter, be verified by oath or affirmation, to be taken as aforesaid, of the person or persons by whom such entries shall have been made, which oath or affirmation shall be certified at the end of such entries by the collector or officer administering the same, and shall be, in substance, as follows: "I do swear (or affirm) that the foregoing entries were made by me on the respective days specified, and that they state, according to the best of my knowledge and belief, the whole quantity of spirituous liquors distilled and sold, or removed for consumption or sale, at the distillery owned by——, in the county of——, amounting to—— gallons, according to proof prescribed by the laws of the United States."

SEC. 49. *And be it further enacted*, That the owner, agent, or superintendent aforesaid, shall, in case the original entries required to be made in his books by this act shall not have been made by himself, subjoin to the oath or affirmation of the person by whom they were made the following oath or affirmation, to be taken as aforesaid: "I do swear (or affirm) that, to the best of my knowledge and belief, the foregoing entries are just and true, and that I have taken all the means in my power to make them so."

SEC. 50. *And be it further enacted*, That on and after the first day of August, eighteen hundred and sixty-two, there shall be paid on all beer, lager beer, ale, porter, and other similar fermented liquors by whatever name such liquors may be called, a duty of one dollar for each and every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity or for fractional parts of a barrel, which shall be brewed or manu-

factured and sold or removed for consumption or sale within the United States or the Territories thereof, or within the District of Columbia, after that day; which duty shall be paid by the owner, agent, or superintendent of the brewery or premises in which such fermented liquors shall be made, and shall be paid at the time of rendering the accounts of such fermented liquors so chargeable with duty, as required to be rendered by the following section of this act: *Provided*, That fractional parts of a barrel shall be halves, quarters, eighths, and sixteenths, and any fractional part containing less than one-sixteenth shall be accounted one-sixteenth; more than one-sixteenth and not more than one-eighth shall be accounted one-eighth; more than one-eighth, and not more than one-quarter, shall be accounted one-quarter; more than one-quarter, and not more than one-half, shall be accounted one-half; more than one-half, shall be accounted one barrel.

SEC. 51. *And be it further enacted*, That every person who, on said first day of August, eighteen hundred and sixty-two, shall be the owner or occupant of any brewery or premises used or intended to be used for the purpose of brewing or making such fermented liquors, or who shall have such premises under his control or superintendence, as agent for the owner or occupant, or shall have in his possession or custody any vessel or vessels intended to be used on said premises in the manufacture of beer, lager beer, ale, porter, or other similar fermented liquors, either as owner, agent, or otherwise, shall from day to day, enter or cause to be entered in a book to be kept by him for that purpose, and which shall be open at all times, except Sundays, between the rising and setting of the sun, for the inspection of said collector, who may take any minutes or memorandum or transcripts thereof, the quantities of grain, or other vegetable productions or other substances, put into the mash-tub, or otherwise used for the purpose of producing beer, or for any other purpose, and the quantity or number of barrels and fractional parts of barrels of fermented liquors made and sold, or removed for consumption or sale, keeping separate account of the several kinds and descriptions; and shall render to said collector, on the first day of each month in each year, or within ten days thereafter, a general account, in writing, taken from his books, of the qualities of grain, or other vegetable productions or other substances, put into the mash-tub, or otherwise used, for the purpose of producing beer, or for any other purpose, and the quantity or number of barrels and fractional parts of barrels of each kind of fermented liquors made and sold, or removed for consumption or sale, for one month preceding said day; and shall verify or cause to be verified the said entries, reports, books, and general accounts, on oath or general affirmation, to be taken before the collector or some officer authorized by the laws of the State to administer the same according to the form required by this Act where the same is prescribed; and shall also pay to the said collector the duties

which, by this Act, ought to be paid on the liquor made and sold, or removed for consumption or sale, and in the said accounts mentioned, at the time of rendering the account thereof, as aforesaid. But where the manufacturer of any beer, lager beer or ale, manufactures the same in one collection district, and owns or hires a depot or warehouse for the storage and sale of such beer, lager beer, or ale, in another collection district, he may, instead of paying to the collector of the district where the same was manufactured the duties chargeable thereon, present to such collector or his deputy an invoice of the quantity or number of barrels about to be removed for the purpose of storage and sale, specifying in such invoice, with reasonable certainty, the depot or warehouse in which he intends to place such beer, lager beer, or ale; and thereupon such collector or deputy shall indorse on such invoice his permission for such removal, and shall at the same time transmit to the collector of the district in which such depot or warehouse is situated a duplicate of such invoice; and thereafter the manufacturer of the beer, lager beer, or ale so removed shall render the same account, and pay the same duties, and be subject to the same liabilities and penalties as if the beer, lager beer, or ale so removed had been manufactured in the district. The Commissioner of Internal Revenue may prescribe such rules as he may deem necessary for the purpose of carrying the provisions of this section into effect.

SEC. 52. *And be it further enacted*, That the entries made in the books required to be kept by the foregoing section shall, on said first day of each and every month, or within ten days thereafter, be verified by the oath or affirmation, to be taken as aforesaid, of the person or persons by whom such entries shall have been made, which oath or affirmation shall be certified at the end of such entries by the collector or officer administering the same, and shall be, in substance, as follows: "I do swear (or affirm) that the foregoing entries were made by me on the respective days specified, and that they state, according to the best of my knowledge and belief, the whole quantity of fermented liquors either brewed or brewed and sold at the brewery owned by ———, in the county of ———, amounting to ——— barrels."

SEC. 53. *And be it further enacted*, That the owner, agent, or superintendent aforesaid shall, in case the original entries required to be made in his books shall not have been made by himself, subjoin to the oath or affirmation the following oath or affirmation, to be taken as aforesaid: "I do swear (or affirm) that, to the best of my knowledge and belief, the foregoing entries are just and true, and that I have taken all the means in my power to make them so."

SEC. 54. *And be it further enacted*, That the owner, agent, or superintendent of any vessel or vessels used in making fermented liquors, or of any

still, boiler, or other vessel used in the distillation of spirits on which duty is payable, who shall neglect or refuse to make true and exact entry and report of the same, or to do, or cause to be done, any of the things by this act required to be done as aforesaid, shall forfeit for every such neglect or refusal all the liquors and spirits made by or for him, and all the vessels used in making the same, and the stills, boilers, and other vessels used in distillation, together with the sum of five hundred dollars, to be recovered with costs of suit; which said liquors or spirits, with the vessels containing the same, with all the vessels used in making the same, may be seized by any collector of internal duties, and held by him until a decision shall be had thereon according to law: *Provided*, That such seizure be made within thirty days after the cause for the same may have occurred, and that proceedings to enforce said forfeiture shall have been commenced by such collector within twenty days of the seizure thereof. And the proceedings to enforce said forfeiture of said property shall be in the nature of a proceeding *in rem*, in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction.

SEC. 55. *And be it further enacted*, That in all cases in which the duties aforesaid, payable on spirituous liquors distilled and sold, or removed for consumption or sale, or beer, lager beer, ale, porter, and other similar fermented liquors, shall not be paid at the time of rendering the account of the same, as herein required, the person or persons chargeable therewith shall pay, in addition, ten per centum on the amount thereof; and, until such duties with such addition shall be paid, they shall be and remain a lien upon the distillery where such liquors have been distilled, or the brewery where such liquors have been brewed, and upon the stills, boilers, vats, and all other implements thereto belonging, until the same shall have been paid; and in case of refusal or neglect to pay said duties, with the addition, within ten days after the same shall have become payable, the amount thereof may be recovered by distraint and sale of the goods, chattels, and effects of the delinquent; and, in case of such distraint, it shall be the duty of the officer charged with the collection to make, or cause to be made, an account of the goods, chattels, or effects which may be distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods, chattels, or effects, at his, her, or their dwelling, with a note of the sum demanded, and the time and place of sale; and said officer shall forthwith cause a notification to be published in some newspaper, if any there be, within the county, and publicly posted up at the post office nearest to the residence of the person whose property shall be distrained, or at the court-house of the same county, if not more than ten miles distant, which notice shall specify the articles distrained, and the time and place proposed for the sale thereof, which time shall not be less than ten days from the date of

such notification, and the place proposed for sale not more than five miles distant from the place of making such distraint : *Provided*, That in every case of distraint for the payment of the duties aforesaid, the goods, chattels, or effects so distrained may and shall be restored to the owner or possessor if, prior to the sale thereof, payment or tender thereof shall be made to the proper officer charged with the collection, of the full amount demanded, together with such fee for levying and advertising, and such sum for the necessary and reasonable expenses of removing and keeping the goods, chattels, and effects so distrained as may be allowed in like cases by the laws or practice of the State or Territory wherein the distraint shall have been made ; but in case of non-payment or neglect to tender as aforesaid, the said officer shall proceed to sell the said goods, chattels, and effects at public auction, after due notice of the time and place of sale, and may and shall retain from the proceeds of such sale the amount demandable for the use of the United States, with the said necessary and reasonable expenses of said distraint and sale, as aforesaid, and a commission of five per centum thereon for his own use ; rendering the overplus, if any there be, to the person whose goods, chattels, and effects shall have been distrained.

SEC. 56. *And be it further enacted*, That every person licensed as aforesaid to distill spirituous liquors, or licensed as a brewer, shall, once in each month, upon the request of the assessor or assistant assessor for the district in which his business as a distiller or brewer may be carried on, respectively, furnish the said assessor or assistant assessor with an abstract of the entries upon his books, herein provided to be made, showing the amount of spirituous liquor distilled and sold, or removed for consumption or sale, or of beer, lager beer, ale, porter, or other fermented liquor made and sold, or removed for consumption or sale, during the preceding month, respectively ; the truth and correctness of which abstract shall be verified by the oath of the party so furnishing the same. And the said assessor or assistant assessor shall have the right to examine the books of such person for the purpose of ascertaining the correctness of such abstract. And for any neglect to furnish such abstract when requested, or refusal to furnish an examination of the books as aforesaid, the person so neglecting shall forfeit the sum of five hundred dollars.

A few days after the approval of this law (July 1st, 1862), the import duty on brandy was increased by twenty-five cents per gallon, and on all other spirits, fifty cents per gallon. The duties on malt liquors were raised from fifteen to twenty cents per gallon, when imported in casks, and from twenty-five to thirty cents, when imported in bottles. By the act of March

3, 1863, the internal tax on fermented liquors was temporarily reduced to sixty cents per barrel, that is to say, the tax was to be at this rate from the date of the passage of that act to April 1, 1864, after which date the original tax of \$1.00 per barrel was to be revived. At this rate—it may be stated right here—the tax upon malt liquors remains to this day.

No change in the rate of the internal tax on distilled spirits was made until the year 1864, when two acts were passed,* one rapidly following the other, successively increasing the excise duty to 60 cents, \$1.50 and \$2. The latter was to take effect on the 1st of February, 1865, but this provision was subsequently so amended as to make the rate take effect a month earlier. It is worthy of note that after the date mentioned a discrimination in the rate of tax was made in favor of brandy distilled from grapes, which shortly afterwards was extended so as to include spirits distilled from apples and peaches.

Every proposition to increase the tax on spirits brought out repetitions of Sherman's assertion, that the laws would inevitably be made the basis of dangerous speculation, unless a tax be imposed upon stock on hand. Experience had even then furnished ample proof of the truth of this statement, and everything seemed to combine, to impress upon the minds of members of Congress the necessity of profiting by the lessons which this experience offered. If the effect of the various laws, beginning with that of July 1st, 1862, be examined—a task rendered very easy by the help of the masterly reports of the Special Revenue Commission, of which D. A. Wells was chairman—it will be found that Sherman's prediction was more than verified. In the fiscal year 1862-63, under the tax of twenty cents, imposed July 1st, 1862, the revenues accruing from this source amounted to but \$3,229,900. Hence,

* May 7th and June 30th, 1864.

the quantity of spirits on which taxes were paid during that time did not come up to one-fifth of the quantity returned by the census of 1860. Did so low a tax have the effect of restricting consumption to so great an extent? Surely not. The consumption was undoubtedly diminished, as is shown by the official reports of the revenue commission, but not to an extent at all approaching the ratio above indicated. The fact is, production had ceased to that extent, for the simple reason, foretold by Sherman, that long before the passage of the law—its enactment being then an almost absolute certainty—the distillers produced spirits so largely in excess of immediate demand, that during the time in question there was no need of a larger production than the one stated above. The tables of internal revenue receipts, reproduced in another part of this book, demonstrate very plainly the sudden fluctuations in the manufacture of this article, which cannot be explained otherwise than Sherman had done in the second session of the thirty-seventh Congress.

Anyone acquainted with the progress of the war, and the condition of the Treasury, must have foreseen, at the beginning of the fiscal year 1863-64, that an increase of taxes would have to be effected; as subsequent disclosures showed, distillers had as good an opportunity of knowing what Congress would do in the matter, as any other class of manufacturers, and they did not fail to improve their opportunities.

As soon as the first increase in the rate of tax had become what might be called a moral certainty, distillation was resumed with so much energy, that before the new law, imposing a tax of sixty cents, went into operation, no less than 56,863,595 gallons of spirits were manufactured on which the old tax of twenty cents was paid. Under this and the new tax—which latter, as has been shown, was more than trebled within five months—the aggregate quantities of spirits returned by the revenue officials amounted to 85,295,893 gallons. This

effect of the instability of the rate of tax could have been averted from the beginning, if the law-makers had acted on Sherman's suggestion, but it seems that even then the influence of what is popularly called *the third House* had more weight than prudential considerations. The Special Revenue Commission, appointed in 1865, made this statement in reference to the operation of the law : *

"The immediate effect of the enactment of the first three and successive rates of duty was to cause an almost entire suspension of the business of distilling, which was resumed again with great activity as soon as an advance in the rate of tax in each instance became probable. The stock of whiskey and high wines accumulated in the country under this course of procedure was without precedent, and Congress, by its refusal to make the advance in taxation, in any instance retroactive, virtually legislated for the benefit of the distillers and speculators rather than for the Treasury and the Government."

This was not, however, the worst feature of the law, for the Treasury at least obtained revenue at the lower rate of tax on which this sort of speculation was based. The worst feature by far was the facility offered for an entire evasion of all taxes. From the report already cited it appears, that the matter of inspecting distilleries and spirits was frequently left entirely to the "workmen or partners in the distilleries inspected." The testimony of George Parnell, United States revenue agent, was very pointed in this respect. He made the statement, that distillers manufactured and fraudulently sold, without the slightest pretense of concealment, spirits, in quantities ranging from 20,000 to 80,000 gallons, without suspicion on the part of the local officers, that the business was not conducted in all respects legally and honestly. In answer to the question whether, then, these frauds were due to the neglect on the part of the Government officials, he literally stated :

"There never has been any officer appointed under the revenue act, whose special duty it was to look after distilleries. The inspectors are paid

* House Ex. Doc. No. 60, 1st Session, 39th Congress, p. 19.

in the shape of fees, by the distillers. The fees are generally very small. *In most cases all the inspectors ever thought of doing was, to go and inspect the liquors when the distillers sent for them.*"

From a mass of evidence, which would form a small volume, the conclusion is inevitable that the law, as it then stood, would not have enabled the Government to prevent fraud, even if the conduct of the war had not detracted attention from the details of this subject. It must not be supposed that frauds upon the Government were committed by distillers only; the disposition to evade the tax extended to all trades. It is to be regretted that the example of the U. S. Brewers' Association, which was organized for the purpose of protecting both the interests of its members and those of the Government, found few, if any, imitators.

The appointment of the special revenue commission—under authority of an act of Congress, approved March 3rd, 1865—and the subsequent creation of the office of Special Commissioner of the revenue, in 1866, signalized the beginning of those attempts at a thorough revenue reform, which in later years brought about the annihilation of a combination of speculators, commonly known under the name of "whiskey ring," and placed the Government in a position to prevent and detect revenue frauds. A general outline of the modifications of the law, deemed necessary in order to make taxes on spirits and fermented liquors more easily collectable and to prevent frauds—is found in the following extract from the report of the Special Revenue Commission of January, 1866:*

"Distilled spirits.—Of the various sources of revenue included under the internal revenue, that of distilled spirits ranks first in importance. The amount of revenue derived from this

* House Ex. Doc. No. 34, 1st Session, 39th Congress.

source for the several fiscal years during which the internal revenue law has been in operation, is as follows:

1863.....	\$3,229,990.79
1864.....	28,431,797.83
1865.....	15,995,701.66

During the fiscal year 1863 the tax was uniformly twenty cents per gallon. For the fiscal year 1864 the tax was twenty cents until March 7th, after which it was sixty cents. From July 1st, 1864, until January 1st, 1865, it was \$1.50 per gallon, and afterwards \$2. Of the receipts from excise on distilled spirits in the year 1865, \$3,862,753, or nearly one-fourth of the whole amount, was from spirits previously bonded, and paying the former rates of twenty and sixty cents per gallon.

The average taxable production of distilled spirits per year, from September 1st, 1862, to June 30th, 1865, as returned to the department, was 40,537,871 gallons.

The amount of distilled spirits produced in the country during the year 1860 was in excess of ninety millions of gallons. The amount at present required to meet the consumption of the country, under the influence of the high rate of taxation imposed upon this article, is estimated by the commission as from forty-two to forty-five millions of gallons; and with the continuance of the present rate of excise they have no reason to believe that this amount will, for some years to come, be either largely increased or diminished.

Of the amount at present required to supply the consumption of the country, the commission estimate that probably about 39,000,000 gallons are required for drinking purposes, leaving from 3,000,000 to 6,000,000 gallons for industrial uses. This estimate does not include the amount of spirits exported, from which by reason of the drawback, no revenue accrues. The largest amount ever exported in any one year has not, according to the official returns, exceeded 3,000,000 gallons. In regard to the rate of tax to be imposed upon spirituous or distilled liquors, the commission are of the opinion that the present rate of two dollars per gallon is in excess of the proper revenue standard, and that a reduction will be for the interests both of the revenue and the country. They accordingly recommend that the rate of tax on distilled spirits be

reduced to one dollar per gallon. (*The Commissioner afterwards proposed a tax of 50 cents per gallon.* With this rate of duty, and with the consumption for industrial purposes (estimated at not less than 10,000,000 gallons) which must follow, the commission are of the opinion that, making all allowances, an average annual revenue of at least forty millions of dollars, from this source may be collected.

But whatever may be the rate of tax agreed upon for the future, it is clearly evident that a far more stringent and effective law than that which now exists is needed, if any fair proportion of the amount which the Government has a right to expect from this source is to be collected, and protection at the same time extended to the honest distiller as against the competition of his illicit competitor.

The commission, therefore, present, in connection with their special report upon this subject, a draught of a new law, which they believe will be effectual for the prevention of fraud and the securing of the revenue. This bill, which is necessarily arbitrary and restrictive, does not, in some of its essential features, meet the approval of a portion of the distilling interest of the country, and their opposition to it may be fairly expected.

The commission have, however, given a great amount of time to the investigation of this subject, and have availed themselves of the judgment of the most experienced revenue officials, distillers and dealers, from various sections of the country; and have also sought to acquaint themselves most thoroughly with the manner in which this subject is treated for revenue in the various States of Europe.

The securing of a large revenue from distilled spirits in the United States is absolutely necessary to insure the successful carrying out of any plan for simplifying the internal revenue system, and relieving the general industry of the country from a burden of taxation which must inevitably result in disaster. No industrial interest in the country can better sustain the burden of taxation than distilled spirits. The precedents of all other countries are uniformly in favor of taxing spirits to the maximum consistent with revenue; and while any relaxation of the law, on the other hand, does not benefit the consumer its stringent enforcement with a regulation of the

business will not diminish the amount which appetite or industrial necessity demands for consumption. If it be urged that the bill as reported by the commission is too restrictive and arbitrary in its character, destructive of small private interests; and as imposing large additional restrictions and expenses upon all engaged in the business, it may be replied that the amount of good which must inevitably accrue to the whole country by the course recommended—if the same will insure an enforcement of the law and the collection of the revenue—is sufficient to justify a disregard of the interests of a comparatively small number of individuals. The commission, therefore, express the hope that Congress will not too readily listen to the appeals of those who are more anxious to subserve their own interests than the interests of the country.

Fermented liquors.—The next source of revenue to which the commission ask attention is that derivable from fermented liquors, which, like distilled spirits, are capable of sustaining, without injury to the country, a heavy taxation. From this source the following revenues have accrued for the fiscal years 1863, 1864 and 1865;

1863.....	\$1,558,083.41
1864.....	2,223,719.73
1865.....	3,657,181.06

From September 1862, to March 3, 1863, the tax was one dollar per barrel—of not more than thirty-one gallons; from that date to April 1, 1864, sixty cents; and since that time, one dollar. The number of barrels upon which the tax was received, as nearly as can be ascertained, was 1,765,827 in 1863; 3,459,119 in 1864; and 3,657,181 in 1865.

By the census of 1860 the number of breweries then existing in the United States was returned at 1,269, affording a product of nearly four million barrels (3,812,346.) The commission, after a careful review of this branch of industry, and personal consultation with nearly every leading brewer of both ale and lager beer in the United States, are of the opinion that the number of barrels of beer produced and consumed in the country during the fiscal year 1865 was nearly or quite 6,000,000, and that the annual increase of product at the pres-

ent time is about ten per cent. per annum, mainly of lager beer. If this opinion be correct, it is apparent that the Government received for the above year but little more than sixty per cent. of its just dues from this source.

Upon the announcement of the appointment of this commission in the spring of 1865, the National Brewers' Association appointed a committee of three of their most prominent members, to visit Europe, and examine, carefully and in detail, the results of the working of the systems of taxation in regard to fermented liquors adopted in those countries of Europe, where the demand for such liquors is more general and extensive than in the United States. The report of that committee, comprising a great amount of information touching this industry, now so rapidly developing itself in the United States, has, by vote of the Brewers' Association, been placed in the hands of the commission, and is now at the disposal of Congress for publication if they deem it expedient. The commission believes that its publication would be of great benefit to the brewing interest of the country, and, indirectly, to the revenue; and they therefore recommend it.*

As the present rate of tax imposed upon fermented liquors, viz: one dollar per barrel of thirty-one gallons, is in excess of the rate imposed by any of the States of Europe (Austria excepted); and as the present rate, moreover, in the opinion of the commission, after full consideration, is believed to be fully up to the revenue standard; and as such is all but unanimously acquiesced in by the brewing interest of the country, they would, therefore, recommend that the existing rate be neither increased nor diminished.

The determination of the proper mode of collecting the tax on fermented liquors, and preventing the large amount of fraud which has heretofore, undoubtedly, been committed in regard to the same, has been to the commission a subject of no little difficulty. By reference to their Special Report, (No 6,) it will be seen that a tax on malt in this country is not practicable; neither is the plan, also investigated by the commission, of gauging and assessing the liquors, either in the "coppers" during the process of manufacture, or subsequently,

* See Proceedings 5th U. S. Brewers' Convention; pp. 10-48.

while in the fermenting vats. Abandoning both of these methods, therefore, they have, with the full concurrence and assistance of the leading brewers of the country, devised a plan for collecting the tax by means of a stamp, printed on insoluble parchment paper, to be affixed to each barrel sold and removed from the place of its manufacture, with a requirement that the same be cancelled by the retailer or consumer.

Specimens of the stamps assigned for this purpose have been prepared for submission to Congress, while the full details of the plan are given in the special report referred to. With the adoption of this system, and the retention of the present rate of excise, the commission estimate that the Government may rely upon an immediate annual revenue, from fermented liquors, of at least five millions of dollars."

Not until the year 1868—when, under the tax of two dollars per gallon, the revenue from distilled spirits had decreased to a figure indicating either an almost entire suspension of distillation or an unprecedented degree of fraudulent transactions—was the law enacted * which Special Commissioner D. A. Wells had proposed. The system of collection, supervision and control then introduced, and subsequently perfected in many particulars, is practically the same which is in operation at this day. It is the method which makes the internal duty payable by means of stamps to be affixed to the packages containing the spirits or fermented liquors, and which surrounds the manufacture and sale of these articles with an effective, though by no means oppressive, guard against infractions of the law. The duty, now reduced from *two dollars to fifty cents* per gallon, was thought to be low enough to do away with the temptation to defraud the Government and to afford the greatest possible guarantee of an easy collection of the whole, or nearly the whole amount of taxes due to the Treasury. This rate was, however, again changed a number of times (as will be seen from the tables reproduced in the next chapter),

* Act of July 20, 1868.

but, in the main, not in such a manner as permanently to defeat the objects of the law.

It was not so far, and is not now, deemed essential to enter into the details of the system of drawbacks, of the regulations relating to hydrometers and bonded ware-houses, although in regard to the latter a great deal might be said concerning practices on the part of distillers, which show little regard for the interests of the Government.

No attempt will be made either to review the many laws on the subject, passed since 1868, or to narrate the history of the fraudulent schemes—yet fresh in the memory of the reader—which were disclosed and punished, and whose recurrence was effectually guarded against under General Grant's second Administration. For present purposes it is sufficient to know the exact policy of the Government, or rather the spirit of the laws and general results; and as to the latter point it must be clear to everybody that, in determining the legitimate effects of internal taxes upon the manufacture and consumption of fermented liquors and distilled spirits, we must pass over the period of questionable speculations, of frauds and fluctuations, and take into consideration only the period during which the revenue laws were generally obeyed. This period embraces at least eleven years, from 1874 to the present day.

CHAPTER XL

EPITOME OF THE POLICY OF THE GOVERNMENT AND THE SPIRIT OF THE LAWS SINCE 1860.—PREJUDICE AGAINST EXCISES COMPLETELY WIPED OUT, SO FAR AS INTOXICANTS ARE CONCERNED.—WILLINGNESS OF DISTILLERS AND BREWERS TO BE TAXED.—FAITHFUL ADHERENCE TO THE POLICY OF FAVORING MALT LIQUORS FOR MORAL REASONS.—UNIVERSAL DESIRE, FROM THE BEGINNING OF OUR GOVERNMENT TO PRESENT DAY, TO SUBSTITUTE MALT LIQUORS FOR ARDENT SPIRITS.—HAMILTON'S AIMS REALIZED.—THE OPERATION OF THE REVENUE LAWS DURING THE FIRST TEN YEARS OF THEIR EXISTENCE.—EFFECT OF SPECULATION AND FRAUDS.—MODIFICATIONS OF LAWS WITH A VIEW TO PREVENTION OF BOTH.—BRIEF REVIEW OF EXTERNAL TAXATION ON INTOXICANTS SINCE 1860.—RESULTS OF INTERNAL TAXATION SINCE 1874.—MARVELOUS GROWTH OF BREWING INDUSTRY, CONSUMPTION OF ARDENT SPIRITS DECREASED BY OVER FIFTY PER CENT; THE OBJECTS OF THE TEMPERANCE MOVEMENT REALIZED.—THE PEOPLE OF THE UNITED STATES AMONG THE FIRST OF TEMPERATE NATIONS; THEIR PRESENT POLICY ADOPTED BY EUROPEAN GOVERNMENTS, AND SUSTAINED BY SCIENTIFIC INVESTIGATIONS.—WHAT IS NEEDED TO PERPETUATE AND MULTIPLY THE FRUITS OF WISE LAWS.—REVENUE TABLES.

The policy of the Government in regard to the internal taxing of ardent liquors is to-day precisely what it was when the Revenue Commission formulated it in these words: "In respect to distilled spirits, the commission, taking as their guide the history of past congressional legislation, and what seems to be the general public sentiment of the country, assume in the outset, that it is to be the future policy of the Government to impose upon these articles the maximum tax which they can bear, without too largely encouraging attempts at evasion of payment by the smuggler, the illicit distiller, and the retailer." This was the policy of the Government

when the entire system of internal taxation, as created by the law of July 1, 1862, was necessarily regarded as simply a war measure; it remained the policy when, after the re-establishment of peace, the gradual reduction and final abolishment of all other internal taxes—those upon tobacco excepted—was initiated; and it is the policy to-day when the system embraces but one other article besides ardent and fermented liquors. In determining the maximum tax, conformably to the sense of the foregoing quotation, that is to say, in endeavoring to fix the highest collectable excise on spirits, Congress erred repeatedly, and, considering the imperfections of human nature, it will surely not be regarded as a matter of surprise that some persons, who were in a position to derive pecuniary advantage from such legislative errors, did not hesitate to profit by them. Nor is it to be wondered at that frauds became the rule, when the tax on spirits rose to a sum amounting to 1,000 per cent. on the prime cost of the article.

When the proper level was found for the tax, and when Congress ceased directly or indirectly to aid the nefarious schemes of greedy speculators, we find on the part of all, or very nearly all, distillers a cheerful compliance with the law or, in other words, an unreserved endorsement of the policy of the Government. No objection was ever urged by them against the *principle* of excises in their particular case. They undoubtedly knew of the prejudice against this system of taxation and were aware of the rôle it played in the political and economic history of the country; but they did not themselves entertain it, and far from endeavoring to profit by whatever force this prejudice may have possessed in their time, or may still possess, they have, on the contrary, signified their preference for a retention of the tax. Public sentiment certainly sustains them in this. When the final abolishment of internal taxes on all other articles and trades had become inevitable, by reason of a super-

abundance of revenue, no serious effort was made to reduce the excise on spirits below the rate which experience had demonstrated to be the maximum collectable tax; and whenever such a reduction was proposed, it invariably emanated from quarters which left it doubtful, whether repugnance to an excise or the desire to retain the protective system of taxation prompted the proposition. At all events it can safely be asserted—proof being easily accessible—that those who have to bear the tax in question and all the inconveniences that are said to grow out of its alleged obnoxious features, are perfectly satisfied with their present status, and that whatever commiseration may be felt for them by those theorists, who regard excises as tyrannical, is just so much sympathy wasted. Any party now wishing to make a political issue of this question, would have to build up a new foundation for it, for, excepting the dissatisfaction still expressed sometimes on account of the number of officers required by a system of excises, there would not even be a shadow of reasonableness in recurring to the objections of old. The subject of an excise on spirits in its relation to the condition of the Treasury may, of course, be made an issue; in that case, however, the question would not be, whether the tax “infringes upon inalienable rights,” but, whether the copious flow of revenues shall be stayed at the expense of Protection or at the expense both of an economic principle and of a moral idea, viz: the principle of imposing the heaviest tax-burden upon an article of luxury best able to bear it, and the moral idea of diminishing the use of ardent spirits by means of a tax. The willingness to bear internal taxes is not confined to distillers, the manufacturers of fermented beverages being no less disposed to contribute their share. In fact, as we have seen, the brewers went so far as to suggest to the Government the most practicable and profitable method of collecting taxes on malt liquors, and of avoiding evasions of tax payments. They fully appreciate the fact, that a system of taxation

which properly discriminates between fermented and distilled liquors, must greatly benefit their industry.

So far as fermented liquors are concerned, the spirit of the laws enacted since the outbreak of the civil war, indicates no departure from the policy enunciated by Hamilton, and acted upon by nearly every Congress since the adoption of the Constitution. It is the policy of favoring and furthering grape-culture and the manufacture of malt liquors, with the aim of substituting the products of the vineyard and the brewery for ardent spirits. The Congressional speeches quoted in the preceding chapter show very plainly that the great difference between the tax on spirits and that on malt liquors was universally regarded as a means by which temperate drinking habits could be produced; and in their report of January, 1866, the Revenue Commission reiterated this policy, when they endorsed the statement, that the object of a true temperance agitation must be the substitution of mild beverages for ardent drinks. There was sufficient evidence even then that, under normal conditions, such an object could be attained by a reasonable excise system.

It was observed that the consumption of beer increased to a very remarkable extent, as soon as the tax on whiskey was raised above sixty cents per gallon. From 1864 to 1866 this increase amounted to 89,652,000 gallons. To be more explicit, in 1864 taxes were paid on 68,913,000 gallons, while in 1866 the Government collected duties on 158,565,000 gallons. In the absence of malt liquors, a still greater part of the demand for stimulants would undoubtedly have been supplied by stealth. As it was, the country fortunately possessed a brewing industry capable of a sudden and very great expansion, and of furnishing to the poorer parts of the population a healthy substitute for the stimulants which they had used before, but which were now placed beyond their means by reason of a high tax. The investigation conducted by the revenue commission in 1865-66,

though it was much hampered by contradictory testimony, justified the conclusion, that the cause of the reduction in the production of distilled spirits in the United States in 1865, as compared with that in 1860, was the diminished demand for spirits for drinking purposes, and that "by far the largest proportion of the reduction in the consumption of spirits for such purposes has been on the part of the working or poor classes of our population, and has been very considerable."* It need not be said that the object here and elsewhere always has been, to make beer and wine so much cheaper than whiskey, that the very classes mentioned in the commission's report would find in the difference of price a sufficient inducement to discontinue the use of the latter and adopt that of the former beverage. According to the very best statistical authorities the excellent liquor laws of Sweden, frequently cited as model temperance measures, failed, until very recently, to diminish the consumption of ardent spirits,† partly because the introduction of malt liquors encountered obstacles which prevented a general use of these beverages. In a number of official and semi-official reports it is stated that in Holland and Belgium practical experiments have convinced the governments, that legislation directed against the abuse of ardent spirits cannot operate successfully unless supplemented by measures which enable the working classes to obtain milder stimulants at less expense than ardent spirits.‡ As compared with Sweden, the United States have the additional advantages of a favorable climate and of a very much superior condition of the workingmen—advantages to which great weight is due from a temperance point of view.

* House Ex. Doc. No. 62, 1st Session, 39th Congress; p. 11.

† The case of Sweden must be judged from a cosmic point of view, in order to understand fully the many difficulties which must be overcome in combating intemperance in that cold climate.

‡ "Real and Imaginary Effects of Intemperance," p. 15.

For reasons already stated it is not contemplated to hazard any deductions from available material as to the consumption of ardent liquors in the period during which, by reason of the defectiveness of the laws, the inefficiency of the revenue service, and the influence of a powerful ring of speculators and politicians, the Government was defrauded of a great part of the revenue from this source. Making due allowance for these extensive frauds, it cannot be doubted that the consumption decreased considerably during that time. It is clearly shown in the reports before mentioned, that after the high tax had enhanced the price of spirits, the use of this article in a great number and variety of manufactures was discontinued. No less than twenty million gallons of proof spirits were used, in 1860, in the preparation of *burning fluid* alone. After 1862 the production of this illuminating agent ceased almost entirely and was replaced by petroleum.† Among the industries, in which the use of alcohol was very great before, and became considerably diminished or ceased entirely after, the imposition of the higher rate of excise taxes, the report mentions the manufacture of varnishes, hat stiffening, furniture polish, perfumery, tinctures, patent medicines, imitation wines, vinegar, transparent soaps, percussion caps and picture frames.

Considered in connection with what was said concerning the diminished demand of spirits for *drinking* purposes, these statements might well serve as a basis for general conclusions, but there would always be justification for an objection on the ground, that the extent of frauds committed in the period in question invalidate any deductions having reference to the influence of the taxes upon the drinking habits of the people. If, therefore, a wholly reliable conclusion is to be obtained, it must be drawn from official data covering a period during

† House Ex. Doc. No. 62, 1st Session, 39th Congress; p. 7.

which the Government, under a perfected revenue system, succeeded in fully enforcing the laws. Without fear of contradiction it may be said that from 1874 to the present time the Treasury received the tax on ninety-seven hundredths of the total quantity of spirits distilled in the United States. The stringency of the law and the keen vigilance of revenue officers preclude the possibility of frauds on anything like a large scale. Infractions of the law are confined to the petty operations of so-called *moonshiners*, and even of this species of illicit manufacture one hears but very rarely nowadays. The period named is in every way suited, then, for a test of the efficacy of the present policy as a promoter of temperate drinking habits.

Before undertaking this very easy task, a few words must be said about the tariff—only very few are necessary. The prevailing policy—that of protecting domestic manufactures—necessarily found its proper application in the case of distilled and fermented liquors, for it was universally conceded, that to impose an internal tax on these articles, without increasing to a reasonable extent the import duties thereon, would be legislating in the interests of foreign grain-producers and hop-growers to the detriment of domestic agriculture. Considered apart from its economic disadvantages, such legislation was moreover thought to be unwise for the reason, that it would retard the growth of the domestic brewing industry, and thus militate against true temperance. Without attempting an analysis of these views, and without venturing to express an opinion as to whether fermented liquors, *if untaxed at home*, would need any protection—the fact must be stated, that no parallel could be found for a policy by virtue of which a domestic industry would be taxed for the benefit of its foreign competitor. Under existing circumstances, it will be admitted, there is nothing economically pernicious in an import duty on spirits and fermented liquors, so long as the internal tax on these articles remains what it is at present.

The duties on ale, beer and porter, as we have seen, were increased in 1862 to 30 cents per gallon, in bottles, and 25 cents per gallon, in casks; in 1864 the former rate was raised to 35 cents. At these rates the duties continued in force up to 1883, when the duty on malt liquors, imported in casks, was reduced to 20 cents per gallon. When the excise on spirits was fixed successively at sixty cents, one dollar and fifty cents, and two dollars, the import duty was increased to \$2.50 per gallon, at which rate it remained to 1870. In that year it was reduced to \$2, which rate is still in force. From 1864 to 1870 the duties on wines ranged, according to quality and alcoholic strength, from twenty cents to one dollar per gallon, in addition to an *ad valorem* duty of twenty-five per cent; sparkling wines paid from \$3 to \$6 per dozen bottles, according to size of packages, in addition to two cents for each bottle. In 1870 the specific duties on still wines were fixed at from 40 to 60 cents per gallon, in casks; this was followed by a tax of 40 cents, which was superseded, in 1883, by a uniform impost of 50 cents per gallon, in casks. Sparkling wines now pay from \$1.75 to \$7 per dozen according to size of bottles. The importation of wines containing more than twenty-four per cent. of alcohol, is practically prohibited by a clause of the law which prescribes the confiscation of all such liquors.

Now, as to the results of internal and external taxes upon distilled and fermented liquors during the period named, a mere glance at the tables appended to this chapter will suffice to show that, in the matter of temperance, our country is now in the enjoyment of the blessing for which, as we have proved, nearly every American statesman of note, from the beginning of our Government to the present day, has wished and worked—a blessing which the governments of Russia, Sweden, France, Northern Germany, Italy, Belgium and the Netherlands are to-day striving to secure for their people—a blessing embodying the realization of the hope which Madison

expressed, when, voicing the sentiments of all economists and moralists of his time and of succeeding generations, he spoke in favor of protecting malt liquors, to the end that "the brewing industry may strike deep root in every State of the Union."

Consulting the tables appended to this chapter, it will be found that from 1874 to 1884 the average annual consumption of ardent spirits, for all purposes, amounted to 64,264,354 gallons, being 25,735,646 gallons less than the people of the Union consumed in 1860. Comparing this decrease in the consumption with the increase in the population of the United States during the twenty-four years which have elapsed since the census of 1860 was taken—amounting to about seventy-five per cent.*—it will be found that a most wonderful change of drinking habits has been produced during the period mentioned. With a view to placing this change before the reader in the plainest possible manner, we will select the year 1883 and compare it with the year 1860 in the matter of consumption of ardent and fermented liquors. In 1860 the total consumption of ardent spirits amounted to 90,000,000 gallons, in 1883 to 76,762,063 gallons; of the former quantity 25,000,000 gallons are assumed to have been used in the arts and manufactures; of the latter eighteen per cent. must be deducted as representing the quantities used in the arts and manufactures, lost by leakage and other causes, and the quantity withdrawn from the "bonded warehouses" by reason of the expiration of the bonded period allowed by law,† that is to say, the quantity of spirits removed from the warehouses, but not immediately brought to market.‡ The excess of im-

* Population in 1860, 31,443,321; in 1884, 55,000,000, arrived at by approximation on the basis of the increase during the decade 1870-80.

† According to official reports the losses by leakage and theft, in 1883, amounted to 2,475,768 gallons.

‡ This is taken into account by every competent writer on the subject. Hon. D. A. Wells, than whom no better authority can be cited on the question of internal taxation, takes this ground in an article published in the

ports over exports in 1860 amounted to 2,011,230 gallons; in 1883 the exportation exceeded the importation of spirits by 2,672,303 gallons, but of this no cognizance can be taken here, as the quantity exported is not included in the total number of gallons on which, according to our tables, taxes were paid in the year 1883. The number of gallons imported—being 1,301,919—must, however, be added to the total quantity withdrawn from warehouses, minus 18 per cent. Thus we obtain the following:

1860 :	Population,	31,443,321;	Spirits consumed as drink,	67,011,230 gallons.
1883	"	55,000,000,	"	"
				64,244,811 "
Per capita consumption in 1860, 2.13 gallons.				
"	"	"	"	1883, 1.17 "

That these figures are not arrived at by computations based on anything not strictly in harmony with official data, will readily be admitted by every fair-minded reader. There may, indeed, be differences of opinion as to the quantity of spirits used for mechanical and other similar purposes, as this part of the computation must of necessity be guess work more or less; yet, all in all, the above figures will be admitted to be more favorable to an argument adverse to our premise than the results arrived at by other authors—fully as competent as the writer of this. Thus, to cite but one example, Hon. D. A. Wells, whose knowledge of the subject is not surpassed by that of any American economist, has this to say on the *present* consumption of ardent spirits: *

* See the article already quoted: *Princeton Review*, March, 1884; p. 205.

Princeton Review of March, 1884. He there says: For the year 1883, with an aggregate population of approximately 56,000,000, the number of gallons of proof-spirits of all kinds on which the internal-revenue tax was paid was returned at 76,762,063; but a considerable part of this product undoubtedly represented spirits which paid the tax and were taken out by necessity, through the expiration of the permitted bonded period, and not by reason of any coincident demand on the part of the public for consumption.

"If we assume the present annual consumption of domestic distilled spirits in the United States to be about 70,000,000 gallons, and about twelve per cent., or 8,400,000 gallons, of this amount be used for industrial or scientific purposes, or lost by leakage and other casualties, then the use of domestic spirits for drink in this country must be at present at the rate of about 1.10 gallons per capita annually for the entire population. To this must also be added the consumption of foreign or imported spirits—the amount of which, exclusive of wines, is not, however, very considerable, less than a million and a half of proof-gallons having been imported during the fiscal year 1892-3. But adding this amount to the consumption of domestic distilled spirits before assumed, the total consumption of spirits—wine, cider, and fermented liquors excepted—by the population of the United States, would therefore appear to be at present at the rate of about 1.14 gallons per capita."

It would seem, then, that the decrease in the per capita consumption of ardent spirits in the United States during the period in question amounts to nearly fifty per cent. The incalculable benefits of this change will be better appreciated, if it be remembered that but half a century ago the American people ranked among the first on the list of "hard-drinking" nations, whereas to-day they stand very near the foot of such list. The following table from the exhaustive report of the Statistical Bureau of Switzerland * corroborates, in its way, the latter assertion.

PER CAPITA CONSUMPTION OF SPIRITS.

	liters.		liters.
Norway.....	3.90	Sweden.....	8.14
Great Britain and Ireland.....	5.87	German Tax Union.....	8.60
Austria-Hungary.....	5.76	Belgium.....	9.20
France.....	7.28	Switzerland.....	9.40
Russia.....	8.08	Netherlands.....	9.87
		Denmark.....	18.90

The per capita consumption of spirits in this country being, according to our computation, 1.17 gallons, equal to 4.42

* Zur Alcoholfrage &c., Bern, 1894, p. 622. Extracts from this public document will be translated and published in the forthcoming annual report of the Publication Committee, U. S. Brewers' Association.

liters, the United States would rank second in the above list, *i. e.*, below Norway and above Great Britain.*

To the mind of anyone acquainted with what might be called the philosophy of the drink question, it must be evident that so great a decrease in the consumption of spirits within so short a time, would not, in itself, be evidence of an amelioration of public and private morals. In order to be able to determine, whether it may be taken as such evidence, one must know *what* it is that has taken the place of the quantity of discarded liquors. In Turkey, for instance, a diminution in the quantity of spirits stealthily consumed would simply mean an increase in the consumption of opium, and a corresponding augmentation of moral and physical ills. It is, in part, this apprehension of diverting man's inherent craving for stimulants from the use of a pernicious article to one still more pernicious, that has prompted the policy of aiding the brewing industry and fostering grape-culture simultaneously with the adoption of restrictive measures directed against ardent spirits. In no civilized country has the wisdom of such a course been more forcibly demonstrated than in the United States, and Table C. gives ample proof of this. It shows that the brewing industry of this country has grown, within twenty-one years, at a rate for which the industrial history of the world scarcely affords a parallel. From 62,205,375 gallons in 1863, the production of malt liquors increased within the stated period to 588,957,189 gallons—a growth which gives to the United States the third place among beer-producing nations. Let figures speak! Adding the increase in the production since June 30, 1884, the following comparative statement is obtained, showing the actual production of malt liquors in round numbers:

* The Swiss report estimates our per capita consumption of spirits as drink at 4.79 litres—evidently an error, which arose from the fact that losses, etc., were not taken into account.

Great Britain.....	999,000,000	gallons.	Netherlands....	34,000,000	gallons.
Germany	900,000,000	"	Russia	8,000,000	"
United States.....	600,000,000	"	Switzerland....	13,500,000	"
France	175,500,000	"	Denmark.....	26,000,000	"
Austria-Hungary...	280,000,000	"	Sweden.....	21,000,000	"
Belgium.....	210,250,000	"	Italy.....	4,000,000	"

The per capita consumption of malt liquors in our country amounts to-day to very nearly eleven gallons. Deducting the population of States and Territories, where beer is not commonly used, viz: Alabama, Arizona, Florida, Georgia, Louisiana, Maine, Mississippi, New Mexico, North Carolina, South Carolina, Tennessee, Texas, Utah, Virginia and Washington Territory, in all about 14,000,000, it will be found that the consumption of malt liquors in the other States of the Union is about 15½ gallons, very little less than the consumption of the same article in the German Tax Union, which is reported as amounting to 65 liters.

As to the progress of domestic grape-culture and the production of American wines since 1860, it is only necessary to reproduce a few figures from the tables contained in our appendix and from the report of the Commissioner of Agriculture, to illustrate the readiness with which our people seize upon a good thing. According to this authority the production of grape-wine amounted to 12,450,000 gallons in 1870, and to 30,000,000 gallons in 1880. In the former year the excess of imports over exports was 9,056,192 gallons, making a total of 21,506,192 gallons, available for domestic consumption. In the latter year the excess of imports over exports amounted to but 3,925,924 gallons, but this decrease was vastly overbalanced by increased domestic production, the quantity on hand for home consumption being 33,925,924 gallons.

In what manner and to what degree this revolution in the drinking habits has ameliorated the physical and moral condition of the American people, will be understood by everyone who is at all acquainted with the effects of distilled and

fermented liquors upon the mind and body of man.* A single example may answer present purposes. Comparing Bavaria with Denmark, in point of consumption of ardent and malt liquors, and in the matter of insanity produced by drunkenness, we obtain the following :

	Consumption of spirits.	Consumption of malt liquors.	Percentage of insanity produced by drink.
Bavaria :	4.31 liters.	262.00 liters.	2.55.
Denmark :	18.90 "	33.33 "	11.

Thus, it will be seen that the consumption of beer is over seven times greater in Bavaria than in Denmark, whereas the percentage of insanity produced by inebriety is five times less in the former than in the latter country ; besides, it would seem from a letter addressed to the writer by Dr. v. Ziemssen—well-known to every medical practitioner as the editor of the *Cyclopædia of the Practice of Medicine*—that even this small percentage is due to the effects of spirituous liquors, the use of which is confined to a small class of people given to excesses of all kinds.

Not until physicians, philosophers and statisticians shall jointly make this question a subject of thorough and systematic research, can we hope to be made familiar with *all* the advantages which the individual and the community have reaped from the policy pursued by the Government since the year 1862 ; but what is positively known at present is amply sufficient to characterize this course as the only effective means by which the evil results of a habit, as old as mankind, can be reduced to a minimum. The substitution of malt liquors for ardent spirits has been the desideratum of all patriotic statesmen from Washington's administration to our day. It has

* For information on this subject the reader is again referred to the writer's statistical sketch : *Real and Imaginary effects of Intemperance*, New York, 1884.

been realized or, rather, is still being realized by the very means, amplified to suit present conditions, which Hamilton proposed eighty-five years ago—a means which is at present resorted to by the Governments of all countries where inebriety prevails.

If proof of the efficacy of this temperance policy were lacking in the United States, abundance of it could be obtained from European countries. The oft-quoted report of the Statistical Bureau of Switzerland, prepared by men trained in a school of statesmanship, which is reputed for its thoroughness, comprises, on 634 pages, comparative treatises on the results of the liquor laws of Sweden, Norway, Finland, Russia, Denmark, the Netherlands, Belgium, Prussia, Bavaria, Wurtemberg, Baden, France, Great Britain, the United States and Austria. The object of the investigation was, to ascertain by what legal measures the vice of drunkenness can be mitigated in its effects on society and on the individual. The results of this investigation—based on the experiences of ten of the most civilized countries—show that, in order to successfully combat intemperance, governments must rely on the rational policy which at present prevails in our country. The report states (page 633) that the means to be employed against intemperance must necessarily vary in accordance with the differences of local views and the conditions of the various countries, but that, generally speaking, the following measures are indispensable conditions of success, viz: “1. *suppression of technically imperfect distillation* ;* 2. *a system of taxation and administration by which the manufacture of and traffic in distilled spirits can be controlled, and, if need be, restricted, and by which the collection of high duties on spirits is rendered*

* This refers to rural distillation, which in our country was nearly wiped out by the internal tax—distillation being at present confined to an inconsiderable number of very large establishments.

feasible ; 3. the reduction or abolition of taxes on wholesome beverages." *

This is virtually the basis on which rests the celebrated Swedish system, and the same course is being pursued in Belgium and in the Netherlands. It is the policy of Germany and, according to latest news,† will in a short time be that of Russia. In France, the greatest grape-growing country of the world, malt liquors bid fair to become a popular beverage—not, as many believe, because literary *Chauvins* have succeeded in making beer the scapegoat for the late French reverses, but because eminent scientists have discovered that the poor physical condition of a large part of the French army, as manifested during the memorable campaign of 1870, is attributable to the excessive use of strong wines and of ardent spirits, particularly of absynth and like dangerous drinks. They therefore conceived the idea of rescuing their people from physical degeneracy, by advocating the introduction of malt liquors. The celebrated Pasteur distinctly states in the preface to his *Studies on Beer*, that he drew his inspirations from the French-German war. These are his words :

"The idea of making these researches was inspired by our misfortune. I began them immediately after the war of 1870, and pursued them with-

* As the above is not a *literal* translation, the original text is here given so as to avoid even the semblance of unfair dealing :

"Im Allgemeinen dürfen als absolute Erfordernisse des Erfolgs bezeichnet werden : die Unterdrückung der technisch unvollkommenen Brennerei, die Wahl eines Steuer- und Verwaltungssystems, das die staatliche Ueberwachung, nöthigenfalls auch die Beschränkung der Fabrikation und des Kleinhandels und die Durchführung strenger fiskalischer Ansprüche an den Branntwein ermöglicht und die Entlastung der gesunden Getränke zu verwirklichen gestattet.

† The *Archiv für russische Brauerei*, published at Moscow, under date of January 1, 1885, states, that the Russian Government is about to issue regulations facilitating the sale of malt liquors, reducing the taxes on these articles, and rendering the license system more convenient to retailers of beer.

out relaxation up to the present time, with a view of securing durable progress, in our country, to an industry in which Germany is greatly superior to us."

But why multiply illustrations of what is universally regarded as a self-evident fact? Why cite European observations, when our own experiences are everywhere looked upon as the best evidence that the temperance problem *can* be solved, without recourse to any other measures than those which the government of a free people is at liberty to resort to in the legitimate exercise of the taxing power?

In our country the *complete* solution of the problem, which, as Cobden claims, lies at the foundation of all social and political reform, is now merely a question of time. Measuring the future progress of temperance by the standard furnished by the experiences of the past twenty-three years, there can be no doubt, that within two decades the American people will occupy the very first place among temperate nations. Provided that the conditions, under which the astonishing decrease in the consumption of ardent spirits and the increase in the use of fermented liquors has taken place, remain essentially unchanged, the drinking habits of the people will be so radically reformed for the better, that, at the end of the present century, a relapse into the earlier condition of inebriety will have become well-nigh impossible. There is, in fact, no other solution of the problem than that which the present policy of the Government offers—the same policy which prevailed under Washington's Administration, and which, doubtless, would have been adhered to, had not prejudices, diplomatic cabals, insurrectionary machinations, political opportunism and economic fallacies combined to silence the strong moral considerations urged in its favor. In whatever manner the temperance question is to be decided, whether on social or moral, on fiscal or economic grounds—this must be the policy, for, judged from either or all of these points of view, its efficacy admits of no doubt.

The admonition, then, which every friend of temperance should address to the national law-makers is, "to let well-enough alone." This is not saying that there is no room for improvement in the details of the law, but simply, that the principles which form the basis of our present regulation of the liquor question should not be set aside—that, in fact, they cannot be set aside, without hazarding the moral and social welfare of the people. Within the range of legislative possibilities there is nothing that could with advantage be substituted for our present system, and among the measures which have so far been tried, here and elsewhere, not one could stand the test of time and experience.

The experiments made in our country range from one extreme to the other—from total non-interference to absolute prohibition. The result of both was "free whiskey." In the case of prohibition it is "free whiskey," to the exclusion of malt liquors, and for this reason the policy of protection and non-interference, to which, at the dictation of the rural population, the National Government adhered during half a century, would be preferable, on temperance grounds, to the realization of the Maine idea. Under the former policy it was at least possible for men of moderate drinking habits to remain temperate, whereas Prohibition, by destroying the brewing industry, subjects even those persons who, by force of habit and taste, incline to the use of fermented drinks, to a far greater danger of abuse, by driving them to the consumption of distilled liquors.

The proper policy, as we have seen, lies midway between these two extremes. Viewed in the light of our past experiences, any attempt to change this policy must be regarded as a crime against the moral and physical welfare of the American people.

TABLE A.*

STATEMENT showing the TOTAL INTERNAL REVENUE RECEIPTS from SPIRITS distilled from whatever materials at the SEVERAL DIFFERENT RATES of TAX, together with the QUANTITIES of the same on which the tax was paid, and the AVERAGE RATE of TAX per GALLON on the AGGREGATE QUANTITIES taxed each year, by fiscal years, from September 1, 1862, to June 30, 1884.

Fiscal years ended June 30.	Rates of tax at which collections were made.	Aggregate collections at each rate.	Aggregate quantities at each rate.	Aggregate collections for each fiscal year.	Aggregate quantities for each fiscal year.
			<i>Gallons.</i>		<i>Gallons.</i>
1863.....	\$0 20	\$3,220,990 79	16,149,954	\$3,220,990 79	16,149,954
1864.....	20	11,272,719 13	56,863,525		
	60	17,050,078 70	28,431,798	28,431,797 88	85,205,293
	20	985,706 16	4,828,525		
	25	7,565 41	30,362		
1865.....	50	2,980 78	5,961		
	60	2,697,115 50	4,828,525	16,007,706 90	16,973,974
	1 50	7,261,187 14	4,854,125		
	2 00	4,533,153 00	2,426,576		
	50	44,740 70	89,481		
1866.....	1 50	228,759 14	159,173	29,482,077 99	14,847,943
	2 00	29,193,578 15	14,599,389		
	1 00	18,060 56	13,070		
1867.....	2 00	29,151,339 78	14,575,670	29,164,409 34	14,568,740
	1 00	138,835 62	158,686		
1868.....	2 00	14,181,843 86	7,065,923	14,290,730 96	7,224,809
	50	18,787,891 70	37,576,738		
	60	14,630,370 60	24,389,951		
1869.....	2 00	208,866 11	132,693	38,735,223 68	62,062,417
	50	51,685 27			
1870.....	50	39,945,099 04	78,490,198	39,945,099 04	78,490,198
1871.....	50	81,157,314 15	62,314,623	81,157,314 15	62,314,623
1872.....	50	83,117,788 99	66,235,578	83,117,788 99	66,235,578
1873.....	50	7,516,836 85	15,033,671	48,181,064 78	65,911,141
	70	25,614,229 43	50,877,470		
1874.....	70	43,807,068 70	62,581,562	43,807,068 70	62,581,562
1875.....	70	83,868,838 76	55,539,912	46,877,988 10	64,425,911
	90	8,009,069 34	8,998,999		
1876.....	70	2,373,264 46	4,104,664	51,390,490 43	58,512,693
	90	48,317,225 97	53,008,029		
1877.....	70	62,159 19	89,793	52,671,291 34	58,043,389
	90	52,609,132 25	58,454,591		
1878.....	70	25,325 53	36,184	45,636,533 06	50,704,189
	90	45,601,204 53	50,668,005		
1879.....	50	15,502 27	81,006		
	70	2,787 03	3,953	47,709,464 24	53,025,175
	90	47,691,194 94	53,990,217		
1880.....	70	190 84	273	55,919,119 18	62,132,415
	90	55,918,925 34	62,132,415		
1881.....	70	1,251 53	1,788	62,214,127 56	69,127,306
	90	62,212,875 98	69,125,418		
1882.....	70	2 17	3	64,778,756 97	71,976,396
	90	64,778,754 80	71,976,395		
1883.....	90	69,085,856 73	76,792,063	69,085,856 73	76,792,063
1884.....	90	71,655,211 33	79,616,901	71,655,211 33	79,616,901
Total.....	....	\$912,729,187 20	1,197,032,677	\$912,729,187 20	1,197,032,677

* From the report of the Commissioner of Revenue, 1884.

TABLE B.*

STATEMENT showing the INTERNAL REVENUE RECEIPTS from DISTILLED SPIRITS at EACH RATE of TAX UNDER THE SEVERAL LEGISLATIVE ENACTMENTS, the QUANTITIES of the same on which the tax was paid, the DATE when EACH RATE of TAX was IMPOSED and REPEALED, and the LENGTH of TIME the several rates were in force, from July 1, 1862, to June 30, 1894.

Description of materials.	Rate of tax per gallon.	Dates of Acts.		Length of time rates were in force.	Aggregate collections.	Aggregate quantities.	Remarks.
		Imposing tax.	Repealing tax.				
Spirits distilled from whatever materials.	\$0 30	July 1, 1862	Mar. 7, 1864	18 months	\$15,008,413 04	Gallons. 77,548,074	The act of July 1, 1862, went into operation September 1, 1862. The act of June 30, 1864, provided that a tax of \$1.30 per gallon should be levied and collected on all distilled spirits, except brandy distilled from grapes, from July 1, 1864, to Feb. 1, 1865; on and after Feb. 1, 1865, the tax should be \$2 per gallon.
Spirits distilled from whatever materials.	60	Mar. 7, 1864	June 30, 1864	4 months	19,906,194 80	82,370,699	
Spirits distilled from whatever materials except grapes.....	1 50	June 30, 1864	Dec. 22, 1864	6 months	7,979,798 00	4,683,193	
Spirits distilled from whatever materials except grapes, to April 1, 1865, and from whatever materials, except apples, grapes, or peaches, after April 1, 1865.	3 00	Dec. 22, 1864	July 30, 1868	48 months	75,908,311 08	87,973,104	The act of Dec. 22, 1864, provided that the tax of \$3 per gallon should take effect Jan. 1, 1865, instead of Feb. 1, 1865. So far as the other acts of legislation referred to in this table relate to the tax on spirits, they went into operation immediately on their passage, except the following:
Spirits distilled from grapes.....	50	June 30, 1864	Mar. 8, 1865	9 months	7,893 41	80,998	
Spirits distilled from grapes.....	50	Mar. 8, 1865	July 13, 1866	17 months	47,731 46	60,443	
Spirits distilled from apples or peaches.....	1 50	Mar. 8, 1865	July 13, 1866	17 months	\$40,818 86	160,146	The act of June 30, 1864, provided that a tax of \$1.30 per gallon should be levied and collected on all distilled spirits, except brandy distilled from grapes, from July 1, 1864, to Feb. 1, 1865; on and after Feb. 1, 1865, the tax should be \$2 per gallon.
Spirits distilled from apples, grapes or peaches.....	3 00	July 13, 1866	Mar. 2, 1867	6 months	835,073 47	427,094	
Spirits distilled from apples or peaches.....	3 00	Mar. 2, 1867	July 30, 1868	17 months	791,903 87	894,490	
Spirits distilled from grapes.....	1 00	Mar. 2, 1867	July 30, 1868	17 months	171,053 14	171,066	The act of Dec. 22, 1864, provided that the tax of \$3 per gallon should take effect Jan. 1, 1865, instead of Feb. 1, 1865. So far as the other acts of legislation referred to in this table relate to the tax on spirits, they went into operation immediately on their passage, except the following:
Spirits distilled from apples, grapes or peaches.....	50	July 30, 1868	June 6, 1873	48 months	141,536,968 80	378,000,310	
Spirits distilled from apples, grapes or peaches.....	50	July 30, 1868	June 6, 1873	48 months	2,983,501 33	5,933,004	
Spirits distilled from materials other than apples, grapes or peaches.....	70	June 6, 1873	Mar. 2, 1875	31 months	117,701,108 17	108,144,561	Dates of acts. Dates when they took effect. Mar. 8, 1862. Apr. 1, 1862. Sept. 1, 1862. Aug. 1, 1872.
Spirits distilled from apples, grapes or peaches.....	70	June 6, 1873	Mar. 2, 1875	31 months	8,553,939 48	5,077,045	
Spirits distilled from materials other than apples, grapes or peaches.....	90	Mar. 2, 1875	.....	119 months	516,410,137 08	873,789,060
Spirits distilled from apples, grapes or peaches.....	90	Mar. 2, 1875	119 months	9,690,337 18	10,745,693	The act of Dec. 22, 1864, provided that the tax of \$3 per gallon should take effect Jan. 1, 1865, instead of Feb. 1, 1865. So far as the other acts of legislation referred to in this table relate to the tax on spirits, they went into operation immediately on their passage, except the following:
Spirits distilled from apples, grapes or peaches.....	90	Mar. 2, 1875	.....	119 months	9,690,337 18	10,745,693
Total.	.....	.....	.....	.....	\$912,793,137 90	1,197,033,077

* From the Report of the Commissioner of Internal Revenue, 1894.

TABLE C.*

STATEMENT showing the INTERNAL REVENUE RECEIPTS from FERMENTED LIQUORS at ONE DOLLAR per BARREL and at SIXTY CENTS per BARREL, together with the QUANTITIES of the same on which TAX was PAID during each fiscal year, from September 1, 1862, to June 30, 1884.

Fiscal years ended June 30.	Rates of tax at which collections were made.	Aggregate collections at each rate.	Aggregate quantities at each rate.	Aggregate collections for each fiscal year.	Aggregate quantities in barrels and their equivalents in gallons for each fiscal year.	
			<i>Barrels.</i>		<i>Barrels.</i>	<i>Gallons.</i>
1863.....	\$1 00	\$885,271 88	885,272	\$1,558,083 41	2,006,625	62,205,375
	60	672,811 53	1,121,253			
1864.....	60	1,376,491 12	2,294,152	2,223,719 73	3,141,381	97,382,811
	1 00	847,228 61	847,229			
1865.....	1 00	3,657,181 06	3,657,181	3,657,181 06	3,657,181	113,372,611
1866.....	1 00	5,115,140 49	5,115,140	5,115,140 49	5,115,140	158,569,340
1867.....	1 00	5,819,345 49	6,207,402	5,819,345 49	6,207,402	192,429,462
1868.....	1 00	5,685,663 70	6,146,663	5,685,663 70	6,146,663	190,546,553
1869.....	1 00	5,866,400 98	6,342,035	5,866,400 98	6,342,055	196,603,705
1870.....	1 00	6,081,520 54	6,574,617	6,081,520 54	6,574,617	203,813,127
1871.....	1 00	7,159,740 20	7,740,260	7,159,740 20	7,740,260	239,948,060
1872.....	1 00	8,009,969 72	8,659,427	8,009,969 72	8,659,427	268,442,237
1873.....	1 00	8,910,823 83	9,633,323	8,910,823 83	9,633,323	298,623,013
1874.....	1 00	8,880,829 68	9,600,897	8,880,829 68	9,600,897	297,627,807
1875.....	1 00	8,743,744 62	9,452,697	8,743,744 62	9,452,697	293,083,607
1876.....	1 00	9,159,675 95	9,902,352	9,159,675 95	9,902,352	306,972,912
1877.....	1 00	9,074,305 93	9,810,060	9,074,305 93	9,810,060	304,111,860
1878.....	1 00	9,473,860 70	10,241,471	9,473,860 70	10,241,471	317,485,601
1879.....	1 00	10,270,352 83	11,103,084	10,270,352 83	11,103,084	344,195,604
1880.....	1 00	12,346,077 26	13,347,111	12,346,077 26	13,347,111	413,760,441
1881.....	1 00	13,237,700 63	14,311,028	13,237,700 63	14,311,028	443,641,868
1882.....	1 00	15,680,678 54	16,952,085	15,680,678 54	16,952,085	525,514,625
1883.....	1 00	16,426,050 11	17,757,892	16,426,050 11	17,757,892	550,494,632
1884.....	1 00	17,573,722 88	18,998,619	17,573,722 88	18,998,619	588,967,189
Total.....	....	\$190,954,088 28	206,701,370	\$190,954,088 28	206,701,370	6,407,742,470

STATEMENT showing the AMOUNT of INTERNAL REVENUE derived from FERMENTED LIQUORS at ONE DOLLAR per BARREL and at SIXTY CENTS per BARREL, under the ENACTMENTS IMPOSING THOSE RATES, the QUANTITIES on which the TAX was PAID, the DATE when EACH RATE was IMPOSED and when it ENDED, and the LENGTH of TIME each rate was in force, from July 1, 1862, to June 30, 1884.

Articles.	Rates of tax per barrel.	Dates of Acts.		Length of time rates were in force.	Aggregate collections.	Aggregate quantities
		First imposing the tax.	Limiting tax.			
Ale, beer, lager beer, porter, and other similar fermented liquors.	\$1 00	July 1, 1862	Mar. 2, 1863	6 months	\$885,271 88	<i>Barrels.</i> 885,272
Ale, beer, lager beer, porter, and other similar fermented liquors.	60	Mar. 2, 1863	(Limiting to Mar. 31, 1864)	13 months	2,049,302 65	3,415,504
Ale, beer, lager beer, porter, and other similar fermented liquors.	1 00	July 1, 1863	.....	243 months	188,019,513 75	202,400,594
Total.....	....	.....	.....	.....	\$190,954,088 28	206,701,370

* From the report of the Commissioner of Internal Revenue, 1884.

APPENDIX.

SEE CHAPTER IV.

The dispatches of the French ambassador Fauchet to his government, which fell into the hands of the British by the capture of a French privateer, and were transmitted to the British ambassador at Washington, contained sufficient evidence to convict Randolph of complicity in the movements mentioned. The following extracts from said dispatches plainly show this. Fauchet wrote :

“The measures which prudence prescribes to me to take with respect to my colleagues, have still presided in the digesting of the dispatches signed by them, which treat of the insurrection of the western countries, and of the repressive means adopted by the Government. I have allowed them to be confined to the giving of a faithful, but naked recital of events. The reflections therein contained scarcely exceed the conclusions easily deducible from the character assumed by the public prints. I have reserved myself to give you, as far as I am able, a key to the facts detailed in our reports. When it comes in question to explain, either by conjectures or by certain data, the secret views of a foreign government, it would be imprudent to run the risk of indiscretions, and to give one's self up to men, whose known partiality for that government, and similitude of passions and interests with its chiefs, might lead to confidences, the issue of which is incalculable. Besides, the *precious confessions of Mr. Randolph alone* throw a satisfactory light upon every thing that comes to pass. These I have not yet communicated to my colleagues. The motives already mentioned lead to this reserve, and still less permit me to open myself to them at the present moment. I shall then endeavor, Citizen, to give you a clew to all the measures, of which the common dispatches give you an account, and to discover the true causes of the explosion, which it is obstinately resolved to repress with great means, although the state of things has no longer any thing alarming. To confine the present crisis to the simple question of the excise, is to reduce it far below its true scale ; it is indubitably connected with a general explosion for some time prepared in the public mind, but which this local and precipitate eruption will cause to miscarry, or at least check for a long time. In order to see the real cause,

in order to calculate the effect and the consequences, we must ascend to the origin of the parties existing in the State, and retrace their progress."

* * * * *

When the riot had reached its height, in August, 1794, and preparations were being made to suppress the insurrection, Fauchet wrote :

"Scarce was the commotion known (& *s.* the uprising in the West during July and August, 1794) when the Secretary of State (Randolph) came to my house. All his countenance was grief. He requested of me a private conversation. 'It is all over,' he said to me: 'a civil war is about to ravage our unhappy country. Four men, by their talents, their influence, their energy, may save it. But, debtors of English merchants, they will be deprived of their liberty if they take the smallest step. Could you lend them instantaneous funds to shelter them from English persecution!' This inquiry," the dispatch continued, "astonished me. It was impossible for me to render a satisfactory answer. You knowing my want of power, and my defect of pecuniary means, I shall withdraw myself from the affair by some common-place remarks, and by throwing myself on the pure and disinterested principles of the republic."

Randolph himself was clearly among the four men who needed this money to save their country.

* * * * *

Still later Fauchet wrote:

"It appears that these men, with others unknown to me, all having without doubt Randolph at their head, were balancing to decide on their party. Two or three days before the proclamation was published, and of course before the Cabinet had resolved on its measures, Mr. Randolph came to see me with an air of great eagerness, and made to me the overtures, of which I have given you an account in my No. 6. Thus, with some thousands of dollars, the republic could have decided on civil war or peace! Thus the consciences of the pretended patriots of America have already their price! It is very true that the certainty of these conclusions, painful to be drawn, will forever exist in our archives. What will be the old age of this Government, if it is thus early decrepid?"

SEE CHAPTER V.—WINE OF THE GRAPE.

The proper wines of the grape, of the best qualities, are those produced in various climates which are found in the United States, if reliance can be placed upon the indications of temperature which I have ventured to suggest. To the kinds of that liquor which have been mentioned, the celebrated wine, called *Tokay*, may be added. It is produced near a place

of the same name, situated in Hungary, in 49° north, in a temperature approaching to that of *Champagne*, one of the best wine districts of France. This situation may be considered as nearly corresponding with that of the country around the common point of contact of Virginia, Maryland, and Pennsylvania. The exquisite wines of the Cape of Good Hope, particularly the red and white *Constantia*, which are produced in 34° south, a position deemed colder than the same latitude north, may be also added. The Madeira produces there an excellent wine.

It has been understood, within a short time, that some enterprising and well informed emigrants from Germany, after careful experiments, have considered the temperature of the southwestern corner of Pennsylvania as suitable for the production of the *Rhenish* and *Moselle* qualities of wines. This fact contributes to support the opinion, that it will be safe to count the degrees and minutes of common temperature in Europe and North America, respectively, from Lisbon and St. Augustine or New Orleans.

It appears by the returns, that about ninety-six quarter casks (a quantity of good red wine worthy of notice) have been made by a few Swiss settlers, from the Madeira and Cape of Good Hope grapes, on the river Ohio, in about 39° north latitude, in the territory of Indiana. It is also understood, that a good wine, really fit for table use, has been made in the vicinity of Columbia, in South Carolina. Other experiments have been made with various success.

The grape vine of several distinctly different species is indigenous in the United States, and is found in every degree of latitude, from the river St. Croix to the Gulf of Mexico. It is, doubtless, from such original stocks, in corresponding temperatures of Europe, that its several present excellent wine grapes have been obtained by selection, choice of position, and soil and cultivation. The skill of the wine maker, resulting from practice, and improved by the relative arts, has curiously perfected the manufacture of wine. This commodity rewards, by profit and pleasure, the skill and exertion of its improvers. A striking difference, very interesting to the United States, occurs in the characters of certain great classes of foreign wines, extensively used in this country, a statement and attempt to explain which may contribute to improve the future operations of the wine makers of the United States.

It has been constantly observed that, although the superior red and white wines of France (the Burgundy, the finer clarets, the Champagne, and the Sauterne) are proved by the hydrometer to be as strong as some, and stronger than others, of the wines of Spain, Portugal, and their wine islands, (the Sherry, the Pacharetta, the Lisbon, the Carcavella, the Madeira, the Teneriffe, the Fayal, and the St. Michael's) yet the French wines can

only be kept *in bottles well corked and sealed*, while the latter are constantly kept *upon tap*, in *half emptied casks*. It is also observed, that, within a few hours after the uncorking of a bottle of French wine, especially of any of the superior qualities, it becomes sensibly bad, while these white wines of Spain, Portugal, and their islands, remain good, and some of them even improve in decanters, *which by accident have remain long unstopped*. This difference is considered to be occasioned by the fact, that the spirit of the French wine is its own natural and proper *fermented spirit*, while the Portuguese and Spanish wines have, in addition to their *fermented*, infusions of *distilled spirits* or brandy. The French wines, soon after their exposure to the air, by the drawing of the cork, are believed to recommence fermentation, and are quickly injured, having been before sufficiently and most perfectly fermented; while the distilled spirits in those wines of Spain and Portugal prevents a similar recommencement of fermentation and its consequent injuries. Distilled spirits have no sensible fermentation.

Believing in this cause of the difference between those two great classes of wines, and deeply impressed with the importance of that difference, in several views, I submitted the facts, in a guarded and informal conference with the President, Vice-Presidents, and several other learned and judicious members of the *American Philosophical Society*, at one of our meetings, in a manner which led to suggestions of the moment, from the gentlemen, respectively, in order to attain a knowledge of the cause; and, after hearing the whole, that which I have stated was also submitted to their consideration, and was received with as much assent as the nature of a learned body and of the subject rendered proper and necessary, on a new and informal communication. This matter is introduced here as the foundation of a suggestion, that, in the wine-making business of the United States, in internal situations, where bottles may be costly or unattainable, a cautious infusion of the barely necessary portion of *homogeneous* distilled spirits (the purest and best brandy of the grape) will, probably, enable our citizens to keep their wine as they keep those of Lisbon, Xeres, Madeira, Fayal, and Teneriffe, in *half empty casks* and common decanters. Thus, not only a great and universal economy in respect to bottles may be made, but the practicability of keeping wines, in a condition fit for use, may be extended to all situations, and to every storekeeper and family. Hitherto the manufacture of fermented liquors has been impeded, by the expense of bottles, and often by the total want of them.

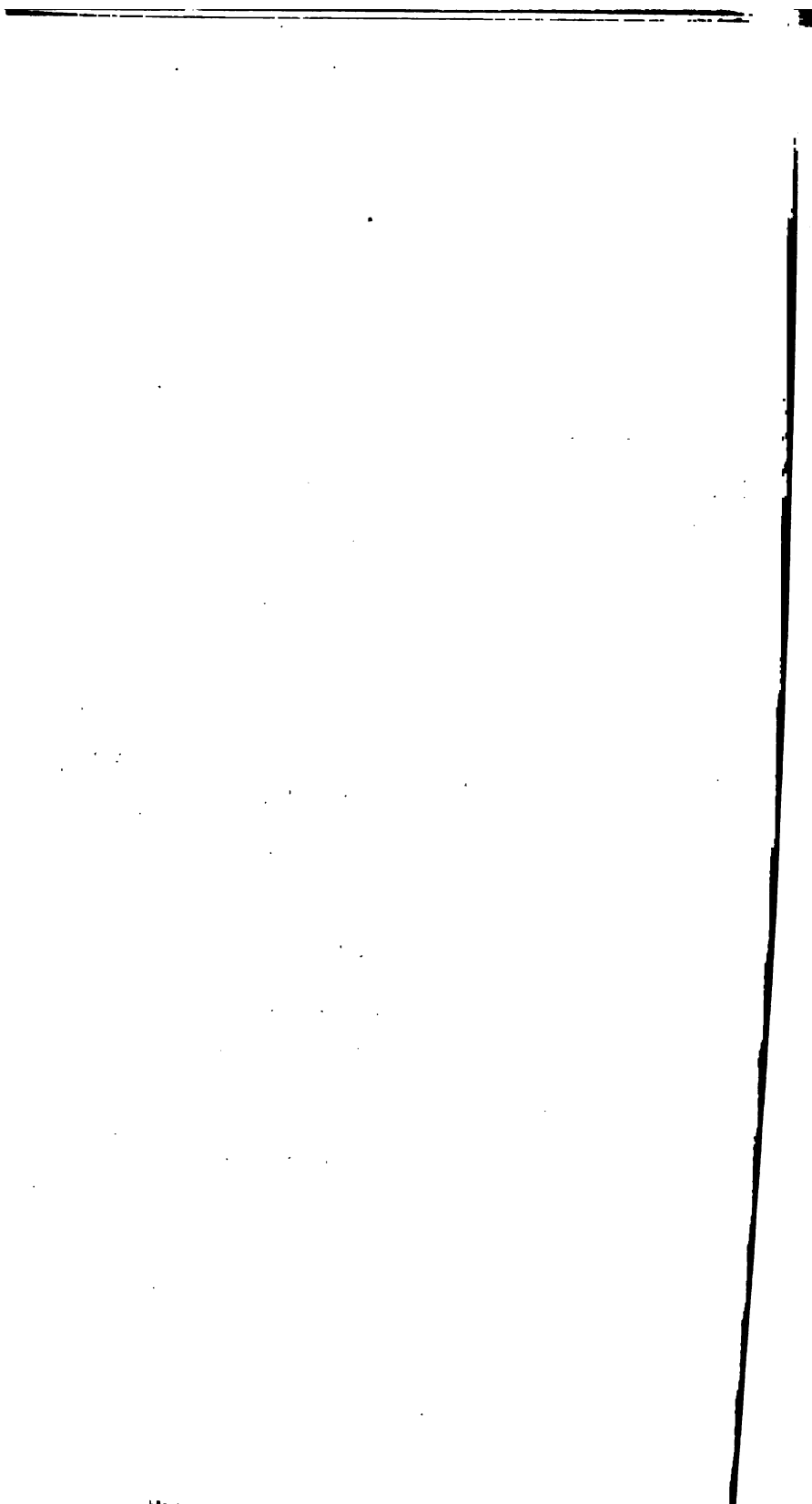
As the grape and its wines and essential salt (known under the name of cream of tartar) are of very considerable importance to our interior country, which must receive foreign wines at costs and charges, which a great majority of the people cannot sustain, and as wine has a high value as an inducement from distilled spirits and as a medicine, besides the value

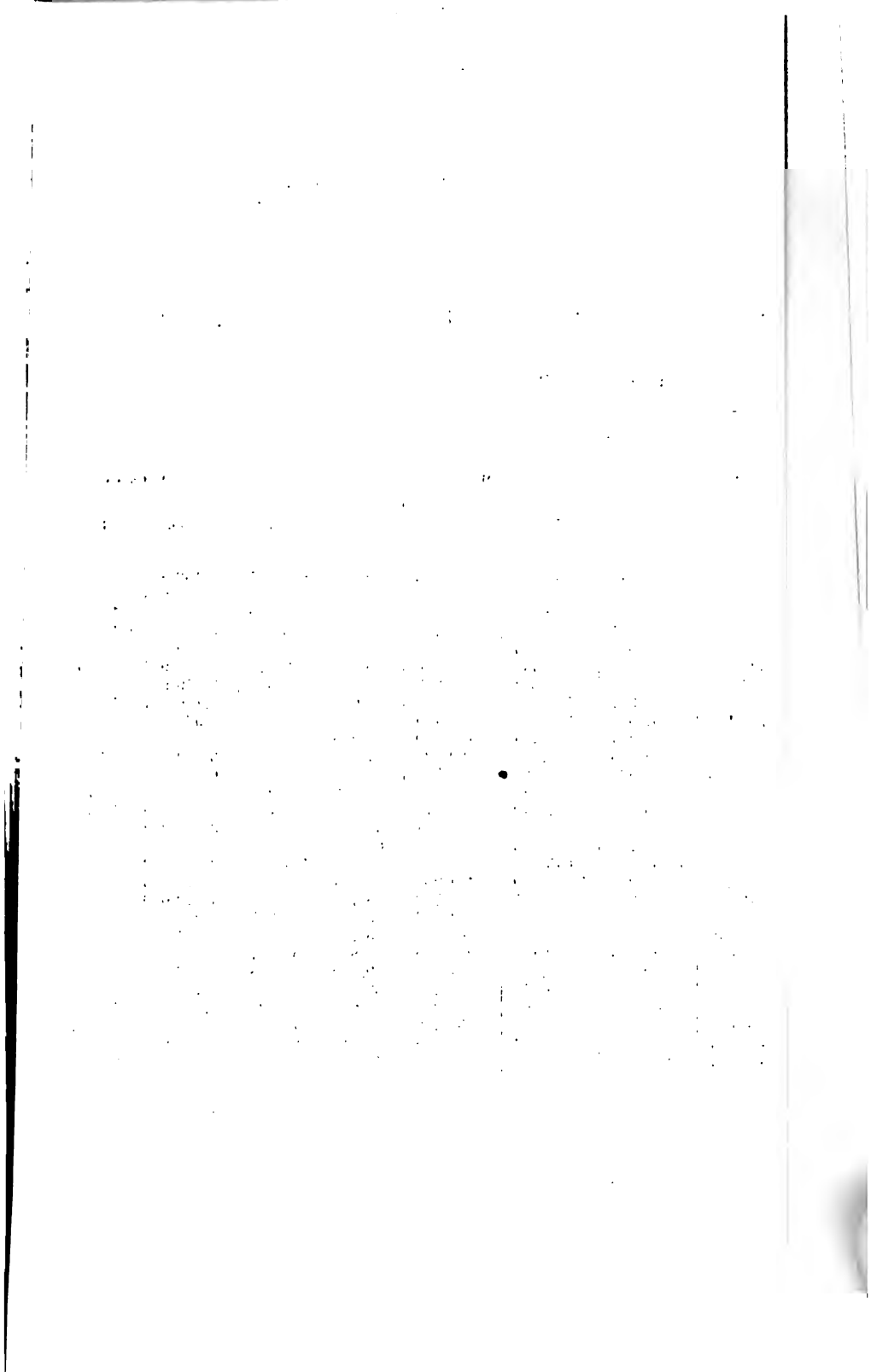
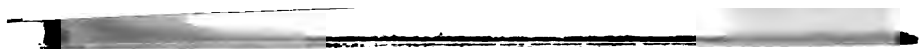
of the fresh and dry grape, it is a matter of real consequence in this statement, that the success of the wine manufacture appears to be rendered certain, by the variety and universality of native grapes, by a number of successful experiments, and by the correspondence of temperature between parts of our country and the districts of the Tokay, the Champagne, the Moselle, the Rhenish, and the Hock, the Burgundy, the various clarets of Bordeaux, the Sauterne and the Grave, the Oporto, the Lisbon, and other superior or estimable wines of the European continent, and those also of the Cape of Good Hope. *Extreme heat does not appear necessary or even favorable to the happiest concoction of the juices of the grape, the orange, and fruit in general.* France, not less distinguished for its various and exquisite fruits than any other country, has no point more southern than 42° 26' north latitude. In considering the character of Madeira and its wines, it will be remembered that it is a small and elevated island, and similar considerations, as to temperature, arise, in regard to the *Constantia* vineyards, at the southern point of Africa, the *Cape of Good Hope*, which must greatly partake of insular characteristics.

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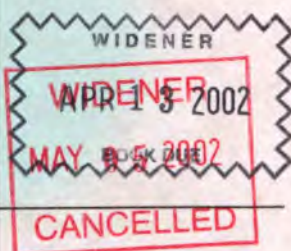


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